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Customs Commercial System

Introduction to the Canadian Tariff and Import Statistics Nomenclature

Canada

INTRODUCTION TO THE CANADIAN TARIFF AND IMPORT STATISTICS NOMENCLATURE

This Manual has been prepared by

The Department of National Revenue, Customs and Excise

FOREWORD

FOREWORD

This manual serves two main functions. First, it introduces the combined tariff and import statistical nomenclature implemented by Canada in January 1988 in fulfillment of its obligations as a Contracting Party to the International Convention on the Harmonized Commodity Description and Coding System (HS). Second, it provides instruction on how to classify goods in Canada's Tariff and Import Statistics Nomenclature.

The manual consists of four parts, each of which is divided into chapters. Part 1 briefly describes the events leading up to Canada's adoption of the Harmonized Commodity Description and Coding System as the basis for classifying goods for both tariff and statistical purposes and the steps that were taken by Canada to ensure that Canadian tariff and statistical needs were met under this system. Part 2 describes the legal provisions upon which the Harmonized System is based, including the legal provisions made by Canada to fulfill domestic requirements. In Part 3, the references of a complementary nature which have been developed to support the HS are described. Part 4 consists of a series of case studies which illustrate the way in which goods are classified in the Canadian Tariff and Import Statistics Nomenclature.

This manual contains very few references to the Customs Commercial System (CCS) introduced with the HS in 1988, although the CCS features a number of automated sub-systems which are employed by Customs officers in the course of determining tariff and statistical classification. The application of the CCS with regard to the classification function is covered in the CCS User Manual.

Furthermore, this Manual does not provide any detailed information on the HS-based export nomenclature developed by Statistics Canada to fulfill Canada's obligations pursuant to the International Convention with respect to the compilation and publication of Canadian Export Trade Statistics. Information on the Canadian HS-based export nomenclature is available in the Canadian Export Classification Manual prepared by the International Trade Division of Statistics Canada.

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PART 1

HISTORICAL BACKGROUND

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INTRODUCTION

In 1981, Cabinet decided that Canada should work towards adopting the Harmonized Commodity Description and Coding System (HS), being developed under the auspices of the Customs Co-operation Council (CCC), as the basis for a combined Canadian tariff and statistical classification system.

This decision was prompted by the following considerations:

- Adoption of the HS would provide an opportunity to greatly reduce anomalies and problems which occurred with the existing Customs Tariff because the same product could have multiple tariff classifications, depending on end-use and "made-in-Canada" status.

- The HS would provide a comprehensive classification system designed to ensure simplicity, precision and uniformity in application. A combined tariff and statistical Nomenclature would be simpler to administer, much more readily understood by importers, exporters and manufacturers, and would yield more reliable statistical trade data.

- There would be a readily apparent relationship between Canadian tariff and trade data and that of other countries who used the HS, thereby improving the ability of Canadian negotiators to bargain at international tariff negotiations and enabling Canada to monitor more effectively tariff changes made by other countries.

- Canadian importers who also export would develop expertise in relation to the Harmonized System, which would facilitate preparing export documents and gathering knowledge about foreign tariffs on their exports.

- Canada's foreign relations would be improved with the removal of a complicated tariff structure, which was seen by our trading partners to be a non-tariff trade barrier. This move would be particularly welcomed by developing countries who had complained that they could not determine the value of Canada's General Preferential Tariff Treatment due to the complexity of our tariff classification system.

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INTERNATIONAL DEVELOPMENT OF THE HARMONIZED SYSTEM

Need for New System

In the late 1960s, all parties concerned with international trade were becoming aware of the need to rationalize and harmonize trade documentation data and, in particular, to find a common way of designating and coding all commodities involved in international trade. First to study the problem was the Working Party on Facilitation of International Trade Procedures of the Economic Commission for Europe (ECE).

Group Discussions

Early in 1970, several international organizations, including the ECE Working Party and the Customs Co-operation Council (CCC), met to discuss the problems associated with commodity description and coding.

Customs Co-operation Council

The Customs Cooperation Council, established in 1950, is an organization whose responsibility it is to secure the highest degree of harmony and uniformity in Customs systems and especially to study the problems inherent in the development and improvement of Customs technique and Customs legislation. The delegates to the Council are representatives of the Contracting Parties to the Council Convention, and are usually heads of national Customs administrations. Canada is a member of the Council and its representative is the Deputy Minister of National Revenue, Customs & Excise.

CCC Study

Later in 1970, the CCC established a commodity coding Study Group to examine the possibility of preparing a detailed international commodity code capable of meeting the requirements of Customs authorities, trade statisticians, carriers and producers.

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New System to be based on CCCN

The Study Group reported to the Council that the development of a standard, international commodity description and coding system was not only feasible, but essential to the long term facilitation of international trade. The Group recommended that while the new system should be based on, and eventually replace, the Customs Co-operation Council Nomenclature (the tariff nomenclature used at that time by approximately 100 countries throughout the world), account should also be taken of the many other existing nomenclatures and commodity description systems in use for customs, statistical and transport purposes.

HS Committee restructures CCCN

In September, 1973, the CCC established the Harmonized System Committee to prepare the HS in accordance with the guidelines laid down by the study group. This committee was comprised of participants from Canada and its major trading partners.

The committee began the work of restructuring and expanding the four-digit Customs Co-operation Council Nomenclature (CCCN) to form a six-digit nomenclature sufficiently detailed to identify all goods of statistical significance in world trade. The committee also expanded the four General Interpretative Rules on which the CCCN was based, by adding two additional Rules. In addition, they updated the Section and Chapter Notes and created Subheading Notes to define the precise scope and limits of Sections, Chapters, headings and subheadings.

The result of this preparatory work, completed in 1983, was a nomenclature which reflected modern technology and patterns of world trade.

HS to be introduced under the cover of an international convention

The parties concerned with the drafting of the HS realized that the best means of ensuring its success would be to implement it under the cover of an international convention. Accordingly, a convention was drafted establishing the roles and responsibilities of contracting parties and the procedures for the ongoing maintenance and development of the HS.

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HS Interim Committee established

In May, 1983, the HS Committee and its Working Party held their 31st session, which was to be their last. However, because some of the work was not yet completed, the CCC found it necessary to establish an Interim Harmonized System Committee for the management of the HS until the Convention came into force.

Convention opened for signature

In June of 1983, the CCC approved the draft International Convention on the Harmonized Commodity Description and Coding System and opened it for signature. The Convention was designed to come into force after it had been signed and ratified by a minimum of 17 parties, to ensure that the HS was introduced with a sufficient number of contracting parties to carry out its design to replace the CCCN and serve as an international commodity nomenclature. The implementation date of the HS was set for January 1, 1987, but was later postponed to January 1, 1988, to give contracting parties sufficient time to make the changeover in their respective Administrations.

Complementary Publications

Having completed development of the HS and its Convention, the CCC and the Interim Committee throughout the remaining post-implementation period focused their attention on the preparation of various reference materials intended to support the HS and to ensure its uniform interpretation and application. Principal among these references, referred to as the Complementary Publications to the HS, were the Explanatory Notes, Classification Opinions and an Alphabetical Commodity Index.

Compendium of Classification Opinions

In March, 1986, the Interim HS Committee began converting classification opinions from the CCCN to the HS.

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DEVELOPMENT OF THE CANADIAN TARIFF AND IMPORT STATISTICAL NOMENCLATURE

Finance's Request

In 1981, at the request of the Department of Finance, Statistics Canada and the International Nomenclature Directorate (IND) within Customs & Excise undertook the task of converting the Canadian Customs Tariff and Canadian International Trade Classification (CITC) to a classification system based on the Harmonized System.

Article 3 of the Convention

The HS-based tariff and statistical nomenclature was drafted in compliance with Article 3 of the International Convention on the Harmonized System and, as provided by paragraph 3 of this Article, subdivisions beyond the six-digit level were developed.

Development of the subdivisions

This six-digit nomenclature was subdivided to form an eight-digit nomenclature to meet Canadian tariff requirements. This was further subdivided to form a ten-digit nomenclature, thereby providing the commodity detail to allow the nomenclature to be used for compiling trade statistics and replace the CITC.

Neutral Transposition

During the conversion stage of the Customs Tariff to the HS, the Canadian Government endeavoured to attain a neutral transposition with respect to rates of duties. This was done to minimize the effects on Canadian importers and manufacturers and to ensure that Canada's GATT (General Agreement on Tariffs and Trade) obligations were met.

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Canadian Rules

The principles of the General Interpretative Rules were applied in developing Canada's nomenclature at the eight and ten-digit levels. However, because these Rules apply legally only to the international levels of the Harmonized System, they could not be used to support classification at the Canadian levels. Therefore, Canadian Rules were created (and legislated) to extend the principles of the HS Interpretative Rules to the Canadian levels of the nomenclature.

Canadian Legal Notes

As discussed previously, the Harmonized System Committee found it necessary, in some cases, to write Section, Chapter and Subheading Notes to ensure that goods are classified properly in the Harmonized System. For much the same reason, during the development of Canada's HS-based nomenclature, it was necessary to create Supplementary Notes and Statistical Notes to ensure proper and consistent classification of goods at the eight- and ten-digit levels of the nomenclature.

Annex

Because goods are classified in the HS according to their intrinsic characteristics and not according to their end-use, it was necessary to develop an Annex to the nomenclature to maintain the beneficial rates of end-use provisions and other concessionary measures in the Customs Tariff. The Annex was designed jointly by the Tariff Board and National Revenue (Customs), under the direction of the Department of Finance.

Tariff Board's Review

When it was completed, Customs gave the draft nomenclature to the Department of Finance, who then referred it to the Tariff Board for review and consideration of three main issues, namely:

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i) the accuracy of the draft nomenclature and rates vis-à-vis the provisions in the former Customs Tariff;

ii) ways in which the draft nomenclature might be improved; and

iii) whether any of the statutory end-use and parts provisions contained in the Annex could be incorporated in the draft nomenclature itself.

Tariff Board's Report

The Tariff Board then held public hearings (Tariff Board Reference 163) at which the public could express their concerns with respect to the draft nomenclature. Based on the representations made at these hearings, and on their own review, the Tariff Board prepared reports containing their recommendations concerning necessary changes to the nomenclature. These reports were subsequently tabled in the House of Commons.

Statistics Canada's Review

Customs also forwarded copies of the nomenclature to Statistics Canada for their review. Statistics Canada later held a "Public Dialogue" to ensure that the nomenclature met the statistical requirements and could replace the CITC with minimal loss of commodity detail.

GATT Negotiations

The GATT Committee on Tariff Concessions recognized in 1983 that the adoption of the Harmonized System by signatories to the General Agreement on Tariffs and Trade (GATT) could affect bound rates of duty as numerous tariff items, or parts of tariff items, could be combined into one or more new headings and bound rates might be combined with unbound rates. Therefore, it would be necessary to re-negotiate these rates under the GATT.

The negotiations commenced in late 1986, in Geneva. Canada was represented at these negotiations by delegates from the Departments of Finance and External Affairs.

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Canada Signs Convention

On December 10, 1986, at a meeting of the CCC Policy Commission in Brussels, Belgium, the Deputy Minister for National Revenue, Customs and Excise signed the International Convention on the Harmonized System, subject to reservation of ratification.

APPENDIX

INTERNATIONAL CONVENTION ON THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

(done at Brussels on 14 June 1983)

PREAMBLE

The Contracting Parties to this Convention, established under the auspices of the Customs Co-operation Council,

Desiring to facilitate international trade,

Desiring to facilitate the collection, comparison and analysis of statistics, in particular those on international trade,

Desiring to reduce the expense incurred by redescribing, reclassifying and recoding goods as they move from one classification system to another in the course of international trade and to facilitate the standardization of trade documentation and the transmission of data,

Considering that changes in technology and the patterns of international trade require extensive modifications to the Convention on Nomenclature for the Classification of Goods in Customs Tariffs, done at Brussels on 15 December 1950,

Considering also that the degree of detail required for Customs and statistical purposes by Governments and trade interests has increased far beyond that provided by the Nomenclature annexed to the above-mentioned Convention,

Considering the importance of accurate and comparable data for the purposes of international trade negotiations,

Considering that the Harmonized System is intended to be used for the purposes of freight tariffs and transport statistics of the various modes of transport,

Considering that the Harmonized System is intended to be incorporated into commercial commodity description and coding systems to the greatest extent possible,

Considering that the Harmonized System is intended to promote as close a correlation as possible between import and export trade statistics and production statistics,

Considering that a close correlation should be maintained between the Harmonized System and the Standard International Trade Classification (SITC) of the United Nations,

Considering the desirability of meeting the aforementioned needs through a combined tariff/statistical nomenclature, suitable for use by the various interests concerned with international trade,

Considering the importance of ensuring that the Harmonized System is kept up-to-date in the light of changes in technology or in patterns of international trade,

Having taken into consideration the work accomplished in this sphere by the Harmonized System Committee set up by the Customs Co-operation Council,

Considering that while the above-mentioned Nomenclature Convention has proved an effective instrument in the attainment of some of these objectives, the best way to achieve the desired results in this respect is to conclude a new international Convention,

Have agreed as follows:

ARTICLE 1

Definitions

For the purpose of this Convention:

(a) the "Harmonized Commodity Description and Coding System", hereinafter referred to as the "Harmonized System", means the Nomenclature comprising the headings and subheadings and their related numerical codes, the Section, Chapter and Subheading Notes and the General Rules for the interpretation of the Harmonized System, set out in the Annex to this Convention;

(b) "Customs tariff nomenclature" means the nomenclature established under the legislation of a Contracting Party for the purposes of levying duties of Customs on imported goods;

(c) "statistical nomenclatures" means goods nomenclatures established by a Contracting Party for the collection of data for import and export trade statistics;

(d) "combined tariff/statistical nomenclature" means a nomenclature, integrating Customs tariff and statistical nomenclatures, legally required by a Contracting Party for the declaration of goods at importation;

(e) "the Convention establishing the Council" means the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950;

(f) "the Council" means the Customs Co-operation Council referred to in paragraph (e) above;

(g) "the Secretary General" means the Secretary General of the Council;

(h) the term "ratification" means ratification, acceptance or approval.

ARTICLE 2

The Annex

The Annex to this Convention shall form an integral part thereof, and any reference to the Convention shall include a reference to the Annex.

ARTICLE 3

Obligations of Contracting Parties

1. Subject to the exceptions enumerated in Article 4:

(a) Each Contracting Party undertakes, except as provided in subparagraph (c) of this paragraph, that from the date on which this Convention enters into force in respect of it, its Customs tariff and statistical nomenclatures shall be in conformity with the Harmonized System. It thus undertakes that, in respect of its Customs tariff and statistical nomenclatures:

(i) it shall use all the headings and subheadings of the Harmonized System without addition or modification, together with their related numerical codes;

(ii) it shall apply the General Rules for the interpretation of the Harmonized System and all the Section, Chapter and Subheading Notes, and shall not modify the scope of the Sections, Chapters, headings or subheadings of the Harmonized System; and

(iii) it shall follow the numerical sequence of the Harmonized System;

(b) Each Contracting Party shall also make publicly available its import and export trade statistics in conformity with the six-digit codes of the Harmonized System, or, on the initiative of the Contracting Party, beyond that level, to the extent that publication is not precluded for exceptional reasons such as commercial confidentiality or national security;

(c) Nothing in this Article shall require a Contracting Party to use the subheadings of the Harmonized System in its Customs tariff nomenclature provided that it meets the obligations at (a) (i), (a) (ii) and (a) (iii) above in a combined tariff/statistical nomenclature.

2. In complying with the undertakings at paragraph 1 (a) of this Article, each Contracting Party may make such textual adaptations as may be necessary to give effect to the Harmonized System in its domestic law.

Note: In developing Canada's nomenclature, it was decided that international terms would be retained, and that Canadian terminology would be shown in parentheses to ensure transparency and comprehensibility in use and administration of the nomenclature.

An example of this sort of modification is shown in heading No. 87.13, which reads as follows:

87.13 Invalid carriages (wheelchairs), whether or not motorized or otherwise mechanically propelled.

3. Nothing in this Article shall prevent a Contracting Party from establishing, in its Customs tariff or statistical nomenclatures, subdivisions classifying goods beyond the level of the Harmonized System, provided that any such subdivision is added and coded at a level beyond that of the six-digit numerical code set out in the Annex to this Convention.

ARTICLE 4

Partial application by developing countries

1. Any developing country Contracting Party may delay its application of some or all of the subheadings of the Harmonized System for such period as may be necessary, having regard to its pattern of international trade or its administrative resources.

2. A developing country Contracting Party which elects to apply the Harmonized System partially under the provisions of this Article agrees to make its best efforts towards the application of the full six-digit Harmonized System within five years of the date on which this Convention enters into force in respect of it or within such further period as it may consider necessary having regard to the provisions of paragraph 1 of this Article.

3. A developing country Contracting Party which elects to apply the Harmonized System partially under the provisions of this Article shall apply all or none of the two-dash subheadings of any one one-dash subheading or all or none of the one-dash subheadings of any one heading. In such cases of partial application, the sixth digit or the fifth and sixth digits of that part of the Harmonized System code not applied shall be replaced by "0" or "00" respectively.

4. A developing country which elects to apply the Harmonized System partially under the provisions of this Article shall on becoming a Contracting Party notify the Secretary General of those subheadings which it will not apply on the date when this Convention enters into force in respect of it and shall also notify the Secretary General of those subheadings which it applies thereafter.

5. Any developing country which elects to apply the Harmonized System partially under the provisions of this Article may on becoming a Contracting Party notify the Secretary General that it formally undertakes to apply the full six-digit Harmonized System within three years of the date when this Convention enters into force in respect of it.

6. Any developing country Contracting Party which partially applies the Harmonized System under the provisions of this Article shall be relieved from its obligations under Article 3 in relation to the subheadings not applied.

ARTICLE 5

Technical assistance for developing countries

Developed country Contracting Parties shall furnish to developing countries that so request, technical assistance on mutually agreed terms in respect of, inter alia, training of personnel, transposing their existing nomenclatures to the Harmonized System and advice on keeping their systems so transposed up-to-date with amendments to the Harmonized System or on applying the provisions of this Convention.

ARTICLE 6

Harmonized System Committee

1. There shall be established under this Convention a Committee to be known as the Harmonized System Committee, composed of representatives from each of the Contracting Parties.

2. It shall normally meet at least twice each year.

3. Its meetings shall be convened by the Secretary General and, unless the Contracting Parties otherwise decide, shall be held at the Headquarters of the Council.

4. In the Harmonized System Committee each Contracting Party shall have the right to one vote; nevertheless, for the purposes of this Convention and without prejudice to any future Convention, where a Customs or Economic Union as well as one or more of its Member States are Contracting Parties such Contracting Parties shall together exercise only one vote. Similarly, where all the Member States of a Customs or Economic Union which is eligible to become a Contracting Party under the provisions of Article 11 (b) become Contracting Parties, they shall together exercise only one vote.

5. The Harmonized System Committee shall elect its own Chairman and one or more Vice-Chairmen.

6. It shall draw up its own Rules of Procedures by decision taken by not less than two-thirds of the votes attributed to its members. The Rules of Procedure so drawn up shall be approved by the Council.

7. It shall invite such intergovernmental or other international organizations as it may consider appropriate to participate as observers in its work.

8. It shall set up Sub-Committees or Working Parties as needed, having regard, in particular, to the provisions of paragraph 1 (a) of Article 7, and it shall determine the membership, voting rights and Rules of Procedure for such Sub-Committees or Working Parties.

ARTICLE 7

Functions of the Committee

1. The Harmonized System Committee, having regard to the provisions of Article 8, shall have the following functions:

   (a) to propose such amendments to this Convention as may be considered desirable, having regard, in particular, to the needs of users and to changes in technology or in patterns of international trade;

   (b) to prepare Explanatory Notes, Classification Opinions or other advice as guides to the interpretation of the Harmonized System;

   (c) to prepare recommendations to secure uniformity in the interpretation and application of the Harmonized System;

   (d) to collate and circulate information concerning the application of the Harmonized System;

   (e) on its own initiative or on request, to furnish information or guidance on any matters concerning the classification of goods in the Harmonized System to Contracting Parties, to Members of the Council and to such intergovernmental or other international organizations as the Committee may consider appropriate;

   (f) to present Reports to each Session of the Council concerning its activities, including proposed amendments, Explanatory Notes, Classification Opinions and other advice;

   (g) to exercise such other powers and functions in relation to the Harmonized System as the Council or the Contracting Parties may deem necessary.

2. Administrative decisions of the Harmonized System Committee having budgetary implications shall be subject to approval by the Council.

ARTICLE 8

Role of the Council

1. The Council shall examine proposals for amendment of this Convention, prepared by the Harmonized System Committee, and recommend them to the Contracting Parties under the procedure of Article 16 unless any Council Member which is a Contracting Party to this Convention requests that the proposals or any part thereof be referred to the Committee for re-examination.

2. The Explanatory Notes, Classification Opinions, other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation and application of the Harmonized System, prepared during a session of the Harmonized System Committee under the provisions of paragraph 1 of Article 7, shall be deemed to be approved by the Council if, not later than the end of the second month following the month during which that session was closed, no Contracting Party to this Convention has notified the Secretary General that it requests that such matter be referred to the Council.

3. Where a matter is referred to the Council under the provisions of paragraph 2 of this Article, the Council shall approve such Explanatory Notes, Classification Opinions, other advice or recommendations, unless any Council Member which is a Contracting Party to this Convention requests that they be referred in whole or part to the Committee for re-examination.

ARTICLE 9

Rates of Customs duty

The Contracting Parties do not assume by this Convention any obligation in relation to rates of Customs duty.

ARTICLE 10

Settlement of disputes

1. Any dispute between Contracting Parties concerning the interpretation or application of this Convention shall, so far as possible, be settled by negotiation between them.

2. Any dispute which is not so settled shall be referred by the Parties to the dispute to the Harmonized System Committee which shall thereupon consider the dispute and make recommendations for its settlement.

3. If the Harmonized System Committee is unable to settle the dispute, it shall refer the matter to the Council which shall make recommendations in conformity with Article III (e) of the Convention establishing the Council.

4. The Parties to the dispute may agree in advance to accept the recommendations of the Committee or the Council as binding.

ARTICLE 11

Eligibility to become a Contracting Party

The following are eligible to become Contracting Parties to this Convention:

(a) Member States of the Council;

(b) Customs or Economic Unions to which competence has been transferred to enter into treaties in respect of some or all of the matters governed by this Convention; and

(c) Any other State to which an invitation to that effect has been addressed by the Secretary General at the direction of the Council.

ARTICLE 12

Procedure for becoming a Contracting Party

1. Any eligible State or Customs or Economic Union may become a Contracting Party to this Convention:

   (a) by signing it without reservation of ratification;

   (b) by depositing an instrument of ratification after having signed the Convention subject to ratification; or

   (c) by acceding to it after the Convention has ceased to be open for signature.

2. This Convention shall be open for signature until 31 December 1986 at the Headquarters of the Council in Brussels by the States and Customs or Economic Unions referred to in Article 11. Thereafter, it shall be open for their accession.

3. The instruments of ratification or accession shall be deposited with the Secretary General.

ARTICLE 13

Entry into force

1. The Convention shall enter into force on the first of January which falls at least twelve months but not more than twenty-four months after a minimum of seventeen States or Customs or Economic Unions referred to in Article 11 above have signed it without reservation of ratification or have deposited their instruments of ratification or accession, but not before 1 January 1987.

2. For any State or Customs or Economic Union signing without reservation of ratification, ratifying or acceding to this Convention after the minimum number specified in paragraph 1 of this Article is reached, this Convention shall enter into force on the first of January which falls at least twelve months but not more than twenty-four months after it has signed the Convention without reservation of ratification or has deposited its instrument of ratification or accession, unless it specifies an earlier date. However, the date of entry into force under the provisions of this paragraph shall not be earlier than the date of entry into force provided for in paragraph 1 of this Article.

ARTICLE 14

Application by dependent territories

1. Any State may, at the time of becoming a Contracting Party to this Convention, or at any time thereafter, declare by notification given to the Secretary General that the Convention shall extend to all or any of the territories for whose international relations it is responsible, named in its notification. Such notification shall take effect on the first of January which falls at least twelve months but not more than twenty-four months after the date of the receipt thereof by the Secretary General, unless an earlier date is specified in the notification. However, this Convention shall not apply to such territories before it has entered into force for the State concerned.

2. This Convention shall cease to have effect for a named territory on the date when the Contracting Party ceases to be responsible for the international relations of that territory or on such earlier date as may be notified to the Secretary General under the procedure of Article 15.

ARTICLE 15

Denunciation

This Convention is of unlimited duration. Nevertheless any Contracting Party may denounce it and such denunciation shall take effect one year after the receipt of the instrument of denunciation by the Secretary General, unless a later date is specified therein.

ARTICLE 16

Amendment procedure

1. The Council may recommend amendments to this Convention to the Contracting Parties.

2. Any Contracting Party may notify the Secretary General of an objection to a recommended amendment and may subsequently withdraw such objection within the period specified in paragraph 3 of this Article.

3. Any recommended amendment shall be deemed to be accepted six months after the date of its notification by the Secretary General provided that there is no objection outstanding at the end of this period.

4. Accepted amendments shall enter into force for all Contracting Parties on one of the following dates:

   (a) where the recommended amendment is notified before 1 April, the date shall be the first of January of the second year following the date of such notification,

   or

   (b) where the recommended amendment is notified on or after 1 April, the date shall be the first of January of the third year following the date of such notification.

5. The statistical nomenclatures of each Contracting Party and its Customs tariff nomenclature or, in the case provided for under paragraph 1 (c) of Article 3, its combined tariff/statistical nomenclature, shall be brought into conformity with the amended Harmonized System on the date specified in paragraph 4 of this Article.

6. Any State or Customs or Economic Union signing without reservation of ratification, ratifying or acceding to this Convention shall be deemed to have accepted any amendments thereto which, at the date when it becomes a Contracting Party, have entered into force or have been accepted under the provisions of paragraph 3 of this Article.

ARTICLE 17

Rights of Contracting Parties
in respect of the Harmonized System

On any matter affecting the Harmonized System, paragraph 4 of Article 6, Article 8 and paragraph 2 of Article 16 shall confer rights on a Contracting Party:

(a) in respect of all parts of the Harmonized System which it applies under the provisions of this Convention; or

(b) until the date when this Convention enters into force in respect of it in accordance with the provisions of Article 13, in respect of all parts of the Harmonized System which it is obligated to apply at that date under the provisions of this Convention; or

(c) in respect of all parts of the Harmonized System, provided that it has been formally undertaken to apply the full six-digit Harmonized System within the period of three years referred to in paragraph 5 of Article 4 and until the expiration of that period.

ARTICLE 18

Reservations

No reservations to this Convention shall be permitted.

ARTICLE 19

Notifications by the Secretary General

The Secretary General shall notify Contracting Parties, other signatory States, Member States of the Council which are not Contracting Parties to this Convention, and the Secretary General of the United Nations, of the following:

(a) Notifications under Article 4;

(b) Signatures, ratifications and accessions as referred to in Article 12;

(c) The date on which the Convention shall enter into force in accordance with Article 13;

(d) Notifications under Article 14;

(e) Denunciations under Article 15;

(f) Amendments to the Convention recommended under Article 16;

(g) Objections in respect of recommended amendments under Article 16, and, where appropriate, their withdrawal; and

(h) Amendments accepted under Article 16, and the date of their entry into force.

ARTICLE 20

Registration with the United Nations

This Convention shall be registered with the Secretariat of the United Nations in accordance with the provisions of Article 102 of the Charter of the United Nations at the request of the Secretary General of the Council.

In witness thereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Brussels on the 14th day of June 1983 in the English and French languages, both texts being equally authentic, in a single original which shall be deposited with the Secretary General of the Council who shall transmit certified copies thereof to all the States and Customs or Economic Unions referred to in Article 11.

PART 2

THE CANADIAN TARIFF AND IMPORT STATISTICS NOMENCLATURE

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INTRODUCTION

The Harmonized System constitutes a structured set of headings and subheadings which, together with the General Interpretative Rules, Section, Chapter and Subheading Notes, provide for the systematic and uniform classification of goods.

In adopting the Harmonized System for Canadian tariff and import statistical purposes, it was necessary to expand the structure of the international system by:

i) subdividing, where required, the subheadings of the Harmonized System to form 7- and 8-digit subdivisions corresponding to Canadian tariff requirements, and further subdividing these provisions to a 9th and 10th digit where required, to provide the commodity detail needed for the collection of import trade statistics;

ii) developing Canadian Rules and Supplementary Notes and Statistical Notes to ensure consistent interpretation and administration of the tariff and statistical subdivisions.

This part of the Manual examines the legal framework of the Harmonized System and the additional components developed by Canada in adopting the Harmonized System as the basis for an integrated tariff and statistical classification system.

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GENERAL INTERPRETATIVE RULES

Introduction

When classifying goods in Chapters 1-97 of the HS, it is not always immediately clear under which heading the goods will fall. Therefore, six General Interpretative Rules were developed by the CCC to define a systematic and consistent approach to classification and, in doing so, to ensure that a product can be unequivocally assigned to a single heading or subheading, to the exclusion of all others.

This Chapter discusses each Rule in detail, and reflects the department's administration of each Rule, based on the CCC's interpretation.

Case studies showing the application of each Rule are contained in Part 4.0.0 of this manual.

Rule 1

> **The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:**

The nomenclature groups goods in Sections, Chapters and sub-Chapters which have been given titles indicating, as precisely as possible, the categories or types of goods they cover. In many cases, however, the variety and number of goods that can be classified in a Section or Chapter are such that it is impossible to cover them all or cite them specifically in the titles.

Rule 1, therefore, begins by establishing that the Section, Chapter and sub-Chapter titles are provided for ease of reference only; consequently, they have no legal bearing on the classification of goods. For example, although Section XV is entitled "Base Metals and Articles of Base Metals", many articles of base metal are classified in other Sections. Revolvers and pistols, which are articles of base metals, are found in Section XIX "Arms and Ammunition,..." rather than in Section XV.

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The same restriction applies to the Chapter titles, i.e., they have no legal bearing on the classification of goods. For example, although Chapter 62 is entitled "Articles of apparel and clothing accessories, not knitted or crocheted", it also covers certain articles which are knitted or crocheted. For instance, heading No. 62.12 covers brassieres, corsets, girdles, garters and similar articles, whether or not knitted or crocheted. Therefore, articles may be included or excluded from a Section or Chapter although the title of that Section or Chapter might lead one to believe otherwise.

With regard to the legal basis for classification in the HS, Rule 1 establishes that classification must be determined according to the terms of the headings and any relative Section and Chapter Notes. Rules 2 - 6 have been written to complement Rule 1, but are applied only if the headings or Notes do not include a requirement that contradicts the Rules, as the headings and Notes take precedence over Rules 2 - 6.

In many cases, a review of the various headings, Section Notes and Chapter Notes that might pertain to a certain product will result in the identification of a single heading that provides for that product. LIVE SCALLOPS are goods for which classification can be based solely on the terms of the headings and relative Section or Chapter Notes because heading No. 03.07 is the only one which provides a complete description of the goods.

> **03.07 Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine.**

It will be possible to classify many goods in the HS without recourse to any further consideration of the Interpretative Rules beyond Rule 1. However, situations will arise in which it will be necessary to refer to the other Rules in order to classify goods.

In some cases, the terms of more than one heading may appear to provide for the article in question. For example, an ELECTRIC CARVING KNIFE answers the description provided by the terms of both heading Nos. 85.08 and 85.09.

> **85.08 Electro-mechanical tools for working in the hand, with self-contained electric motor.**
>
> **85.09 Electro-mechanical domestic appliances, with self-contained electric motor.**

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In other cases, such as those involving unasssembled goods or goods consisting of more than one material, there may not be any heading whose terms provide a full description of the goods. For example, in the case of a kitchen canister, which consists of a combination of wood and plastic, no single heading that provides a full description of the article exists in the HS, although heading Nos. 39.24 and 44.19 each provide a partial description of this article.

39.24 Tableware, kitchenware, other household articles and toilet articles, of plastics.

44.19 Tableware and kitchenware, of wood.

For relatively few articles, there may not be any heading in the HS whose terms can be considered to provide even a partial description of the article. In cases such as these, and in such cases as the electric carving knife or the kitchen canister, where referring to the terms of the heading and relevant legal Notes does not result in the identification of a single correct heading, General Interpretatives Rules 2, 3 and 4 contain provisions according to which a single heading may be chosen.

When classifying goods in accordance with Rules 2 to 6, it is essential to uphold the principle established in the latter part of Rule 1, that the terms of the headings and any relative legal Notes are paramount, i.e. they are the first consideration in determining classification. For example, Rule 2(a) states that a reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished. By application of Rule 2(a), a motor car chassis fitted with an engine might be considered for classification under heading No. 86.03 as a motor car. However, in accordance with Rule 1, the terms of heading No. 87.06, which reads "Chassis fitted with engines, for the motor vehicles of heading Nos. 87.01 to 87.05", take precedence over the provisions of Rule 2(a).

The application of Rules 2 to 6 is discussed in greater detail in the remainder of this Section.

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Rule 2(a)

> **Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.**

Rule 2(a) provides for the classification of incomplete or unfinished goods under the heading for the complete article. The two terms, "incomplete" and "unfinished", are interchangeable. If the incomplete or unfinished goods are to be classified under the heading for complete goods, they must be recognizable or identifiable as the complete or finished product. Examples of incomplete or unfinished articles which are treated as complete or finished articles include:

- an automobile without the wheels
- an automobile without the engine
- a bicycle without the saddle (seat)
- a hunting rifle without a bolt
- a railway passenger coach without the seats

As a general principle, blanks are also regarded as incomplete or unfinished articles classifiable in the same heading as the complete article, unless they are specifically referred to in a given heading. A blank is an article not ready for direct use, having the approximate shape or outline of the finished article or part, and which (other than in exceptional cases) can be used only for completion into the finished article or part.

For example, butter knife blanks of stainless steel, meeting the above conditions, would be classified based on Rule 2(a) under heading No. 82.15, which reads as follows:

> **82.15 Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware.**

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On the other hand, let us look at heading Nos. 45.02 and 45.03 and determine where blanks for corks would be classified.

4502.00.00.00 Natural cork, debacked or roughly squared, or in rectangular (including square) blocks, plates, sheets or strip, (including sharp-edged blanks for corks or stoppers).

45.03 Articles of natural cork.

Sharp-edged blanks for corks or stoppers cannot be classified under heading No. 45.03 with finished corks and stoppers, but rather are classified under heading No. 45.02 because heading No. 45.02 specifically includes sharp-edged blanks for corks and stoppers. Therefore, Rule 2(a) can not be applied, because the terms of heading No. 45.02 stipulate otherwise.

Incomplete or unfinished goods not yet having the essential shape of the finished articles (for example, bars, discs, tubes, etc.) are not regarded as blanks, and are, therefore, classified in their own right.

Rule 2(a) also allows goods which are complete or finished (or which are considered to be complete or finished by virtue of this Rule), but which are unassembled or disassembled, to be classified under the heading for the assembled article. Unassembled goods are those which have never been assembled: a collection of parts that must be put together to form the article. Disassembled articles consist of parts which were once together and then taken apart for various reasons, such as for ease of transport.

Under this Rule, a "kit" consisting of an entire unassembled, unpainted vehicle body would be classified under heading No. 87.07, which reads, "Bodies (including cabs), for the motor vehicles of headings Nos. 87.01 to 87.05", as a complete, assembled body.

In general, the assembly of unassembled or disassembled goods should require no more than the use of simple fixing devices, i.e., screws, nuts, bolts, or such processes as riveting and welding. If major assembly operations are involved, the goods would be classified as individual parts.

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Unassembled/disassembled goods or incomplete or unfinished articles cannot be classified in a heading if a text or a legal Note specifically excludes them. For example, heading No. 91.08 refers to watch movements, complete and assembled. Rule 2(a) cannot, therefore, be applied to include the classification of an unfinished or unassembled watch movement in that heading, because the heading specifies that watch movements must be assembled.

Rule 2 (b)

> **Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.**

The first part of Rule 2(b) states that headings for a particular material or substance may be taken to include that particular material or substance, even if it has been combined with another material or substance. For example, heading No. 10.03, which reads, "Barley", could be taken to include a mixture of barley and oats. By the same token, heading No. 10.04, which reads "Oats", could be taken to include a mixture of oats and barley.

The latter part of Rule 2(b) applies this principle to references to goods of a given material or substance by stating that any reference to goods of a given material or substance may be considered to include a reference to goods consisting wholly or partly of such material or substance. For example, heading No. 44.14, which reads in part, "wooden frames for paintings", could be taken to include a picture frame made out of wood edged with a thin strip of metal. Similarly, heading No. 83.06, which reads in part, "picture or similar frames, of base metal", could be taken to include a picture frame of metal with a wooden trim.

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The application of Rule 2(b) cannot be used to broaden a reference in a heading where to do so would alter the character of the substance or article referred to in that heading. This restriction on the broadening of references includes references of the kind mentioned in the first part of Rule 2(b), i.e., references to materials and substances, and references of the kind mentioned in the second part of Rule 2(b), i.e., references to **goods** of a given material or substance. The circumstances under which Rule 2(b) cannot be used to broaden references in headings are specified in the following excerpt from the CCC Explanatory Notes to the General Interpretative Rule 2(b).

> **"It does not, however, widen the heading so as to cover goods which cannot be regarded, as required under Rule 1, as answering the description in the heading; this occurs where the addition of another material or substance deprives the goods of the character of goods of the kind mentioned in the heading."**

For example, in heading No. 44.19, which reads, "Tableware and kitchenware, of wood", Rule 2(b) cannot be used to extend the reference to tableware of wood to include other goods made entirely or partly of wood. This point may be made more clear by reading the second sentence in Rule 2(b) as if the word "those" preceded the word "goods", i.e., "Any reference to goods of a given material or substance shall be taken to include a reference to (those) goods consisting wholly or partly of such material or substance". Rule 2(b) can only be used to extend the reference to tableware in 44.19 to include a reference to tableware, or articles that closely resemble tableware, consisting of a combination of wood and other material or materials. Similarly, when classifying potting soil consisting of a mixture of 35% sand, 33% peat and 32% animal fertilizers, the reference to "natural sands" in heading No. 25.05 which reads, "Natural sands of all kinds, whether or not coloured, other than metal-bearing sands of Chapter 26" cannot be extended to include a reference to a product which is created by combining other substances with natural sand since the resulting mixture will not have the character of natural sand.

In certain cases, on the basis of Rules 1 and 2(b), mixtures or products which consist of more than one material may be classifiable under one heading only. For example, Rule 2(b) may permit references in a number of headings to be broadened to include a certain mixture; however, it may be necessary to rule out all but one of the headings under consideration should their wording or the relevant legal Notes require.

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There may also be cases involving mixtures or products consisting of several materials in which, by application of Rule 2(b), the article in question is not classifiable in any heading. This may occur when none of the headings which contain a reference to a certain component material of an article can be broadened to include the remaining materials without substantially altering the character of the article referred to in the heading. In such a situation the article concerned is classified using Rule 4, which deals with goods which cannot be classified in accordance with Rules 1 to 3. Classification will also be in accordance with Rule 4 when there are a number of headings under consideration for a composite article, but they are all ruled out due to the wording of the headings or relevant legal Notes.

In many cases the application of Rule 2(b) will result in there being two or more headings under which a product may be classified. The approach to be taken in such instances is discussed in the final sentence of Rule 2(b). This part of Rule 2(b) states that goods consisting of more than one material or substance shall be classified according to the principles of Rule 3, which deal with the classification of goods which potentially fall under two or more headings. The CCC Explanatory Notes to the General Interpretative Rules explain the way in which Rule 2(b) is to be administered in circumstances where broadening the scope of certain headings to include composite goods results in those goods being classifiable under two or more headings.

As a consequence of this Rule, mixtures and combinations of materials or substances, and goods consisting of more than one material or substance, if prima facie (at first glance) classifiable under two or more headings, must therefore be classified according to the principles or Rule 3.

Rule 3 (Preamble)

> **When by application of Rule 2(b) or for any other reason, goods are, PRIMA FACIE, classifiable under two or more headings, classification shall be effected as follows:**

Rule 3 outlines the methods for classification of goods which appear initially to fall under two or more headings. Rule 3 will not apply if, even after considering Rules 1 and 2, no reasonable headings have been identified. In cases such as these, Rule 4 is applied.

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Rule 3(a)

> **The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.**

Rule 3(a) sets out the principle of specific description. This principle requires that the heading which provides the most specific description of the goods is to be preferred to a heading which provides a more general description. It is not practicable to lay down strict criteria by which to determine whether one heading describes the goods more specifically than another. However, two general guidelines can be followed.

A description by name is more specific than a description by class. For example, if we were to classify electric shavers, there are a number of headings which provide a reasonable description of these goods:

> **85.08 Electro-mechanical tools for working in the hand, with self-contained electric motor.**
>
> **85.09 Electro-mechanical domestic appliances, with self-contained electric motor.**
>
> **85.10 Shavers and hair clippers, with self-contained electric motor.**

In accordance with Rule 3(a), electric shavers are to be classified in heading No. 85.10 which provides the more specific description.

Also, if the text of one heading provides a more accurate and complete description than does the text of another, the goods should be classified under that heading. For example, it would appear initially that textile carpet for use in cars could be classified in heading No. 57.03 (carpets and other textile floor coverings) or heading No. 87.08 (Parts and accessories of motor vehicles). In this example, heading No. 57.03 is considered to describe the goods in question more specifically.

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Should two or more possible headings refer to only part of the material or substance of the goods, the headings are to be taken as being equally specific, in accordance with Rule 3(a). For example, in the case of the barley and oats mixture, neither heading can be taken as being more specific, since each refers to only part of the mixture.

Rule 3(a) also stipulates that if two or more headings refer to only part of a set of goods that have been put up for retail sale, the headings for each of the components would be regarded as being equally specific. For example, all of the headings for the components of a hairdressing set, i.e., a pair of electric hair clippers, a comb, a pair of scissors, a brush and a towel put up in a leather case, are all considered to be equally specific, as each refers to only one component of the set.

In cases such as these, classification would be determined in accordance with the principle of essential character established by Rule 3(b).

Rule 3(b)

> **Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.**

The factors which determine essential character will vary from the nature or role of the chief component or material to the purpose or application of the article.

In the case of the barley and oats mixture, the essential character would be determined on the basis of the proportions of the components. If the mixture were made up of mostly barley, that component would give it its essential character.

Determining the essential character of the hairdresser set is slightly more involved. Here, one must consider the purpose of the set, which is, of

course, to cut hair. The two tools in the set designed for cutting hair are the electric hair clippers and the scissors. The scissors, while designed for cutting hair, could be used to cut a variety of products. The hair clipper, however, can be used only for that purpose and accounts for the majority of value of the set. Therefore, it is the electric hair clipper that gives the set its essential character, and it is under the appropriate heading for this item that the set will be classified.

In some situations, it may be difficult to determine whether or not a group of items should be treated as a "set" for the purposes of Rule 3(b). The phrase "goods put up in sets for retail sale" shall be taken to mean goods which:

a. consist of at least two different articles which are classifiable in different headings. For example, six fondue forks cannot be regarded as a set within the meaning of this rule;

b. consist of products or articles put up together to meet a particular need or carry out a specific activity; and

c. are put up in a manner suitable for sale directly to users without repacking.

There will, however, be times when it is impossible to determine the essential character of a product or a set put up for retail sale. For example, if the barley and oats mixture were made up of equal parts (by weight or volume) of each cereal, it would be impossible to identify the essential character of the mixture. This is because proportion amount is the only criterion which can be used to determine its essential character. The value of each component is likely so close that neither could give the mixture its essential character. In addition, both cereals serve the same purpose, i.e., feed for animals. In such cases, consideration must be given to the last principle of Rule 3.

Rule 3(c)

> **When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.**

If classification cannot be determined by applying the principles of either Rule 3(a) or 3(b), the heading which occurs last in numerical order, among those being considered, is the heading under which the goods are to be classified.

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Again, the barley and oats mixture may be used as an example. Because it is a mixture, neither heading (10.03 or 10.04) could be considered to be more specific. Also, if the mixture were made up of equal parts (by volume or weight) of each cereal, neither gives the mixture its essential character. Therefore, the principle of Rule 3(c) will be applied, and the heading which occurs last in numerical order is the correct heading. This is heading No. 10.04, for "Oats".

Still, there may occasionally be cases where an appropriate heading cannot be identified because there are none which provide for the product being classified. Rule 4 has been written to accommodate these situations.

Rule 4

If, through application of Rules 1 to 3, it is impossible to identify the correct heading for a product, the goods must be classified on the basis of Interpretative Rule 4 which reads as follows:

> **Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.**

This Rule has been developed to accommodate products that are introduced to international trade for which there may not appear to be a precise provision in the HS. To determine their classification, it is necessary to compare the goods that are being imported with similar goods in order to determine the goods to which they are most akin. Factors which may be taken into consideration in identifying similar goods could include description, character or purpose of the product.

Rule 5

Rule 5 outlines the procedures for classifying certain containers and packing materials. Rule 5(a) deals with containers and cases.

> **In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein:**

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(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. The Rule does not, however, apply to containers which give the whole its essential character;

According to Rule 5(a), certain cases and/or containers can be classified with the articles they are designed for if they meet specific criteria. The Explanatory Notes for Rule 5(a) state that this Rule shall be taken to cover only those cases and containers which:

1. are specially shaped or fitted to contain a specific article or set of articles, i.e., they are designed specifically to accommodate the article for which they are intended and do not have other uses; and

2. are suitable for long-term use, i.e., they are designed to have durability comparable to that of the articles for which they are intended. These containers also serve to protect the article when not in use (for example, during transport or storage). These criteria enable them to be distinguished from simple packagings; and

3. are presented with the articles for which they are intended, whether or not the articles are packed separately for convenience of transport. The containers are classified in their appropriate headings when presented separately; and

4. are of a kind normally sold with such articles; and

5. do not give the whole its essential character.

Examples of containers presented with the articles for which they are intended, which are to be classified by reference to this rule include:

a. electric shaver cases;
b. binocular cases, telescope cases;
c. musical instrument cases, boxes and bags.

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As noted above, rule 5(a) does not apply to containers which give the whole or the set its essential character, even if they are normally sold with their contents. Examples of containers not covered by this rule are a gold cigarette case fitted to contain cigarettes and sold with cigarettes, or a gold plated lipstick case decorated with semi-precious stones, containing a lipstick. These containers with their contents are to be classified, according to the provisions of Interpretative Rule 3, as "composite goods".

Rule 5(b) on the other hand, deals with packing materials and packing containers:

> **(b) Subject to the provisions of Rule 5(a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.**

Rule 5(b) provides for the classification of packing materials or containers. These are classified under the same heading as the goods if they are entered with the goods, and are normally used only for packing the goods. This does not apply, however, if the packing materials or containers are clearly suitable for repetitive use.

Outer packing materials, such as polybags, cardboard boxes and crates, and inner packing materials, such as cardboard sections under the collars of shirts and the polybags that the shirts are packed in, are all classified under the heading for the relevant article for which the packing is required.

It is important to remember that the phrase "suitable for repetitive use" means that the container must be designed specifically to be re-used for the same purpose as originally intended. Containers and packing materials that are not designed for repetitive use, but which may be re-used for purposes other than that originally intended, must be classified with the goods they contain at the time of importation. For example, small, metal containers that hold tea, but which may eventually be re-used as household canisters, would be classified under the same heading as the tea at the time of importation.

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Rule 6

Finally, the last rule for classification in the HS is Rule 6.

> **For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, MUTATIS MUTANDIS, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of the Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.**

The first five Rules for interpretation of the HS apply at the heading or four-digit level. Rule 6 relates to classification of the goods at the subheading or six-digit level. To apply this rule correctly, it must be clearly understood that the classification of a product to its appropriate subheading in the Harmonized System may only be contemplated after the product has been properly classified in the appropriate four-digit heading. Rule 6 states that Rules 1 to 5 apply to the subheading level in the same manner in which they were applied at the heading level.

This Rule also specifies that, for classification purposes, only subheadings at the same level are comparable. Accordingly, within a single heading, the choice of a one-dash subheading may be made only on the basis of the text of competing one-dash subheadings. When the one-dash subheading that is most specific has been chosen and when that subheading is itself subdivided, then, and only then, shall the texts of the two-dash subheadings be taken into consideration for determining which two-dash subheading should be selected.

Rule 6 also states that the Section and Chapter Notes must be applied to classify at the six-digit level, unless they are contradicted by a Subheading Note or text of a subheading. One example of such a contradiction is found in Chapter 71. The relevant Chapter and Subheading Notes are as follows:

Chapter Note 4(b):

> **The expression "platinum" means platinum, iridium, osmium, palladium, rhodium and ruthenium.**

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Subheading Note 2:

Notwithstanding the provisions of Chapter Note 4(b), for the purpose of subheading Nos. 7110.11 and 7110.19, the expression "platinum" does not include iridium, osmium, palladium, rhodium or ruthenium.

While there is no heading for powdered iridium, Chapter Note 4(b) defines the term "platinum" to include platinum, iridium, osmium, palladium, rhodium and ruthenium. Therefore, powdered iridium is classified in heading No. 71.10. The appropriate subheading is identified by reviewing the texts of the subheadings under the heading No. 71.10 and also by referring to any subheading Notes. On the basis of Subheading Note 2, powdered iridium cannot be classified in subheadings 7110.11 and 7110.19 and, therefore, will fall under subheading 7110.41, which reads as follows:

	-Iridium, osmium and ruthenium
7110.41	**- -Unrought or in powder form**

In this instance, the subheading Note has assigned to the term "platinum" a scope different from that established by the Chapter Note.

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CANADIAN RULES

Introduction

Canadian Rules have been developed to support the administration of the Canadian levels of the nomenclature. They are located in the Customs Tariff, immediately following the General Interpretative Rules.

Rule 1

> **For legal purposes, the classification of goods in the tariff items of a subheading shall be determined according to the terms of those tariff items and any relative Supplementary Notes and, mutatis mutandis, to the above Rules, on the understanding that only tariff items at the same level are comparable. For the purpose of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.**

This Note extends the principles of Interpretative Rule 6 to the tariff item or 8-digit level of the nomenclature.

Rule 2

> **Unless the context otherwise requires, the provisions of Rule 6 of the General Rules for the Interpretation of the Harmonized System shall apply, mutatis mutandis, to the classification numbers within any one tariff item.**

This Note extends the principles of Interpretative Rule 6 to the classification No. or ten-digit level of the nomenclature.

The following example illustrates how the hierarchial structure of the Harmonized System has been applied to the Canadian levels of the nomenclature.

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76.06		**Aluminum plates, sheets and strip, of a thickness exceeding 0.2mm.**
		-Rectangular (including square):
7606.11		**--Of aluminum, not alloyed**
7606.11.10		---Unworked
	10	-----In Coils
		-----Not in Coils:
	21	------Of a thickness exceeding 0.2mm but less than 7mm
	22	------Of a thickness of 7mm or more
7606.11.20		---Worked
	10	-----In Coils
		-----Not in Coils:
	21	------Of a thickness exceeding 0.2mm but less than 7mm
	22	------Of a thickness of 7mm or more
7606.12		**--Of aluminum alloys**
		---Unworked
7606.12.11	00	----Of a thickness of 3.2mm or more but not exceeding 5mm and of a width of 165cm or more but not exceeding 203cm, hot-rolled from ingots of Canadian origin, imported for cold-rolling in Canada, for use in the manufacture of pull tabs for beverage containers
7606.12.12	00	----Of a thickness exceeding 0.2mm but less than 7mm, in coils, for use in the manufacture of offset printing plates
7606.12.19		----Other
	10	-----In coils
		-----Not in coils:
	21	------of a thickness exceeding 0.2mm but less than 7mm
	22	------Of a thickness of 7mm or more

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		---Worked:
7606.12.21	00	----Of a thickness exceeding 0.2mm but less than 7mm in coils, for use in the manufacture of offset printing plates
7606.12.29		----Other
	10	-----In coils
		-----Not in coils:
	21	------Of a thickness exceeding 0.2mm but less than 7mm
	22	------Of a thickness of 7mm or more

If HS number 7606.12 is identified as the correct two-dash subheading for a particular product, the next step is to determine the appropriate three-dash tariff item. Once this is done, the applicable four-dash tariff item is identified. In doing so, consideration can only be given to those four-dash tariff items that are within the previously determined three-dash tariff item. There may, of course, be no need for a subdivision at the four-dash tariff item level, in which case, the next subdivision would be at the statistical level (example: 7606.11.10).

Rule 3

> **Where both a Canadian term and an international term are presented in this nomenclature, the commonly accepted meaning and scope of the international term shall take precedence.**

Although Article 3 of the Convention on the Harmonized System allows for "Canadianization" of certain terms within the nomenclature, Canada has retained the international terms and, where required, clarified such terms by showing the Canadian equivalent in parentheses. This was done to avoid changing the scope of a heading or subheading, which would contravene the HS Convention, and to be consistent with the CCC Complementary Publications.

The purpose of this Rule is to specify that the international term will have precedence over a national term appearing in the same heading or subheading, so as to ensure that the international interpretation of the HS is respected in the Canadian HS-based nomenclature.

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Summary to the Interpretative Rules

The Interpretative Rules establish classification principles which are applicable throughout the Harmonized System. The rules clearly provide the following step-by-step basis for the classification of goods:

a) In every case, a product must first be classified to its appropriate 4-digit heading, bearing in mind that:

   - the terms of the legal Notes take precedence over the terms of the headings; and

   - the terms of the headings take precedence over the terms of Rules 2 to 4.

b) next, the product must be classified to its appropriate 1-dash subdivision within that heading; and

c) finally, the product must be classified to its appropriate 2-dash subdivision within the predetermined 1-dash subdivision.

This process applies without exception throughout the Harmonized System.

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LEGAL NOTES TO THE HS

Introduction

The international "Legal Notes" are the Section and Chapter Notes, including Subheading Notes. The function of the Notes is to define the scope and limits of Sections, Chapters, headings and subheadings. These Notes form an integral part of the Harmonized System and have the same legal force as the heading and subheading texts.

The Notes may take the form of:

(a) general definitions establishing the scope of a heading or subheading;

(b) non-exhaustive lists of typical examples of goods that may be covered;

(c) exhaustive lists of goods covered by a heading or group of headings;

(d) exclusions which denote certain articles that are not included in a Section, Chapter, heading, etc., and direct the user to the appropriate Section, Chapter, heading, etc.

It is important that such Notes be consulted in order to determine the precise meaning of headings or subheadings.

The following are examples of Section, Chapter and Subheading Notes.

Section Notes

An example of a Section Note is found at the beginning of Section II (Vegetable Products).

Note

1. In this section, the term "Pellets" means products which have been agglomerated either directly by compression or by the addition of a binder in a proportion not exceeding 3% by weight.

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This is the only legal Note for section II and it provides a definition which applies to all headings in this section where the term "pellet" is used.

Chapter Notes

At the beginning of Chapter 8 (Edible Fruit and Nuts; Peel of Citrus Fruit or Melons) there are two Chapter Notes.

Notes

1. **This Chapter does not cover inedible nuts or fruit.**

2. **Chilled fruits and nuts are to be classified in the same heading as the corresponding fresh fruits and nuts.**

These notes exclude certain goods from and define the limits of the headings of Chapter 8.

Subheading Notes

An example of a subheading Note is found at the beginning of Chapter 22 (Beverages, Spirits and vinegar).

Subheading Note

1. **For the purposes of subheading No. 2204.10, the expression "Sparkling Wine" means wine which, when kept at a temperature of 20°C in closed containers, has an excess pressure of not less than 3 bars.**

This subheading Note gives a definition which establishes the scope of the subheading. This note applies only to subheading No. 2204.10.

Subheading Notes usually appear at the beginning of Chapters just after the Chapter Notes, but may also be found with the Notes to the Sections.

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NOTES TO THE CANADIAN TARIFF AND IMPORT STATISTICS NOMENCLATURE

Introduction

In developing the HS-based nomenclature, it was necessary to create Notes to ensure accurate and consistent classification at the tariff item and statistical levels of the nomenclature. These Notes are called Supplementary Notes and Statistical Notes respectively and they follow the Section, Chapter or Subheading Notes.

Supplementary Notes

An example of a Supplementary Note is found in Chapter 48, "Paper and Paperboard; Articles of Paper Pulp, of Paper or of Paperboard". This Note reads as follows:

Supplementary Note

1. For the purpose of this Chapter "not converted" means:

(a) in the case of rolls of paper or paperboard, rolls that are the output of a paper-making machine and that have not been punched, perforated, scored, ruled, printed, folded, embossed, decorated or otherwise processed (excluding creped or crinkled); and

(b) in the case of sheets of paper or paperboard, rectangular (including square) sheets with one side exceeding 43cm and the other side exceeding 56cm in the unfolded state which have not been slit, punched, perforated, scored, ruled, printed, folded, embossed, decorated or otherwise converted.

The purpose of this Note is to define a term which appears only at the tariff item level in this Chapter.

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Statistical Notes

Statistical Notes, while required rarely due to the specific commodity detail provided by the statistical subdivisions, were developed by Statistics Canada to support classification at the statistical level of the HS-based nomenclature. Unlike the other Notes to the HS, they have not been legislated and, therefore, are not legally binding. However, it is Departmental policy to administer these Notes as if they had the same status as the Section, Chapter and Supplementary Notes.

An example of a Statistical Note can be found in Chapter 64, "Footwear, Gaiters and the Like; Parts of Such Articles". The Note reads as follows:

Statistical Note

1. For the purpose of this Chapter, the term "children's" means footwear not exceeding Canadian children's size 12.

This Note clarifies a term which, in Chapter 64, is unique to the statistical level.

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NOTES THAT APPLY THROUGHOUT THE NOMENCLATURE

Introduction

Certain legal Notes, which appear at the beginning of a specific Section or Chapter, may apply throughout the **entire** nomenclature.

Example

In classifying a scarf made of woven polyester, headings within Chapter 62 (Section XI), which covers **"Articles of apparel and clothing accessories, not knitted or crocheted"** would normally be considered. The only legal Note that applies to scarves is Note 7 to Chapter 62, and it provides a definition of what is considered to be a scarf. After reviewing all the headings within the Chapter, it is evident that scarves will fall under heading No. 62.14, which reads as follows.

62.14 Shawls, scarves, mufflers, mantillas, veils and the like.

6214.10 - Of silk or silk waste
6214.20 - Of wool or fine animal hair
6214.30 - Of synthetic fibres
6214.40 - Of artificial fibres
6214.90 - Of other textile materials

At this point, it must be determined whether polyester is a synthetic fibre, an artificial fibre or another textile material. The correct subheading cannot be selected without referring to Note 1 of Chapter 54. This Note reads as follows:

1. Throughout the Nomenclature, the term "man-made fibres" means staple fibres and filaments of organic polymers produced by manufacturing processes, either:

(a) By polymerisation of organic monomers, such as polyamides, polyesters, polyurethanes or polyvinyl derivatives; or

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(b) By chemical transformation of natural organic polymers (for example, cellulose, casein, proteins or algae), such as viscose rayon, cellulose acetate, cupro of alginates.

The terms "synthetic" and "artificial", used in relation to fibres, mean: synthetic: fibres as defined at (a); artificial: fibres as defined at (b).

The terms "man-made", "synthetic" and "artificial" shall have the same meanings when used in relation to "textile materials".

By referring to this Note, it has been determined that polyester is considered to be a synthetic fibre. Therefore, the scarf is classified under subheading No. 6214.30.

Without referring to Note 1 of Chapter 54, the correct classification could not have been achieved. However, there is no indication of this in the Notes to Section XI, nor in the Notes to Chapter 62. Furthermore, there would appear to be no reason to refer to Chapter 54 Notes when classifying a scarf, since Chapter 54 does not cover this type of product.

This example clearly illustrates that it is imperative to become familiar with the various Notes that apply throughout the Nomenclature.

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HEADINGS AND SUBHEADINGS

Introduction

The Harmonized System consists of 21 Sections with commodities arranged, for the most part, according to their degree of manufacture. Each Section groups together Chapters (99 in total) which cover related products. Each Chapter is divided into a number of broad product headings (maximum of 99 within a Chapter), the end result being that every product in existence will be provided for by one heading within the nomenclature.

Three of the 99 Chapters were reserved by the CCC at the time the nomenclature was being developed. Chapter 77 has been reserved for possible future development of the Harmonized System, while Chapters 98 and 99 have been reserved for special uses by Contracting Parties. The Canadian nomenclature uses Chapter 98 for special commodity classifications such as settler's effects, goods of returning Canadian residents and diplomatic goods. It should be noted that Chapter 98 is not governed by Article 3 of the Convention on the HS and, therefore, the Interpretative Rules do not apply to this Chapter.

The Section and Chapter titles are provided for ease of reference only and are not legally binding.

Headings

Headings are identified by a 4-digit code, with a period placed after the first two digits. The first two digits indicate the Chapter in which the heading is located and the last two digits indicate the position of the heading in the Chapter. For example, heading No. 01.03 covering "Live swine", is the third heading in chapter 1 which, in its entirety, covers "Live animals". Headings are mutually exclusive in that no two headings provide for the same goods. Thus, products are classifiable under one and only one heading.

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Subheadings

In a number of instances, the 4-digit headings have been subdivided, in a hierarchial fashion using a fifth and sixth digit, to provide greater product detail. In subheadings (and all subsequent levels) the period is placed after the fourth digit, not the second. The hierarchial structure has been achieved by following three structural principles:

i) subdivisions cannot provide for products outside the scope of a heading;

ii) subdivisions must exhaust the superior heading; and

iii) each of the subdivisions at the same level in the hierarchy must be mutually exclusive.

Not all headings have been further subdivided, in which case the fifth and sixth digits are zeros. An example of a heading that has not been further subdivided is heading No. 08.03. HS (subheading) No. 0803.00 covers "Bananas, including plantains, fresh or dried". Since it was felt that there was no need for additional product detail for bananas, there are no subdivisions at the subheading level and, therefore, the fifth and sixth digits are represented by zeros.

First level subheadings

There are two levels of subheadings. First level, or one-dash subheadings are identified by the fifth digit being a number from one to nine and the sixth digit being a zero. Also, product descriptions at this level are preceded by a single dash.

Example

08.06	**Citrus fruit, fresh or dried**
0805.10	**-Oranges**
0805.20	**-Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids**
0805.30	**-Lemons (Citrus lemon, Citrus limonum) and limes (Citrus aurantifolia)**
0805.40	**-Grapefruit**
0805.90	**-Other**

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As it was necessary to provide greater product detail for specific citrus fruits, heading No. 08.05 has been subdivided. These subdivisions follow the hierarchial structure of the nomenclature, in that:

- each subdivision provides for specific citrus fruits and, therefore, are within the scope of the heading;
- the use of the term "other" ensures that there is a subheading for those citrus fruits not named, thereby exhausting the heading; and
- none of these subheadings provide for the same goods and, therefore, each subdivision is mutually exclusive.

Second level subheadings

Second level subheadings are those subheadings in which both the fifth and sixth digits are numbers from one to nine. A second level subheading is a further subdivision of the first level subheading and the product description is preceded by two dashes.

Example:

11.03	**Cereal groats, meal and pellets**
	-Groats and meal:
1103.11	**- -Of wheat**
1103.12	**- -Of oats**
1103.13	**- -Of maize (corn)**
1103.14	**- -Of rice**
1103.19	**- -Of other cereals**
	-Pellets:
1103.21	**- -Of wheat**
1103.29	**- -Of other cereals**

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This heading has been divided into two first level subheadings, indicated by one dash, and further subdivided to specifically name the various types of cereal groats, meal and pellets. These second level subheadings are identified by the sixth digit being a number from one to nine, and by the two dashes that precede the product description. All of the second level or two dash subheadings are subordinate to the one dash subheading which precedes them. Thus, wheat of subheading No. 1103.11, oats of subheading No. 1103.12, maize of subheading No. 1103.13, rice of subheading No. 1103.14 and other cereals of subheading No. 1103.19 all refer to the one-dash subheading, "groats and meal". Similarly, wheat of subheading No. 1103.21 pertains to the one-dash subheading "pellets".

The use of the term "other" in subheading Nos. 1103.19 and 1103.29 allows for the exhaustion of the second level, or two-dash subheadings, since all cereal groats, meal and pellets which are not specifically named can be classified under the appropriate "other", depending upon whether the product is in the form of groats, meal or pellets.

These types of subdivisions are referred to as residual second level subdivisions, because the residual or unnamed products are classified in them.

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TARIFF AND STATISTICAL SUBDIVISIONS

Introduction

As the degree of commodity detail at the subheading level of the HS is not always sufficient for Canadian tariff and statistical purposes, additional subdivisions were created. In making these subdivisions, the seventh and the eighth digits were designated for product/duty requirements, while ninth and tenth digits provide product/statistical detail. These subdivisions are known as the tariff item and classification No. respectively.

The hierarchial structure and principles, characteristic of the HS six-digit nomenclature, were observed when establishing the tariff and statistical subdivisions. There have, however, been minor deviations from the basic premise that goods are classified strictly by their essential character, as there are certain tariff items that contain an end-use provision.

When classifying goods at the tariff item level, the principles of classification specified by Canadian Rule 1 must be applied.

Although the statistical suffix has not been legislated, it is departmental policy to administer this type of subdivision as if it had the same legal force as the preceding levels of the nomenclature, and the principles specified by Canadian Rule 2 must be applied.

Tariff Subdivision

Subheading No. 7404.00 can be used to illustrate tariff subdivisions.

		MFN Rate
7404.00	**Copper waste and scrap**	
7404.00.10	**- - -Not alloyed**	**Free**
	- - -Alloyed:	
7404.00.21	**- - - -Copper-zinc base alloys(brass)**	**4%**
7404.00.29	**- - - -Other**	**10.2%**

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This example illustrates subdivisions at the seven- and eight-digit level. As it is necessary to apply different rates of duty to "Not alloyed" and "Alloyed" copper waste and scrap, a first level tariff subdivision has been made. First level tariff subdivisions are identified by the seventh digit being a number from one to nine and the eighth digit being a zero. They are also distinguished by the three dashes which precede the commodity description.

As different rates of duty are required for various "alloyed" products of subheading No. 7404.00, the first level tariff subdivision has been further divided. These second level tariff subdivisions are identified by the eighth digit being a number from one to nine, and by the four dashes preceding the commodity description.

These subdivisions have observed the three structural principles of the Harmonized System by:

- providing only for those goods within the scope of the subheading;
- exhausting the subheading by use of the term "other"; and
- no two subdivisions providing for the same goods, making each subdivision mutually exclusive.

Statistical Subdivisions

Statistical subdivisions have been made, where required, to provide additional product detail, such as size, colour and component material.

The following is an example of tariff items that have been subdivided to the statistical level:

8213.00		**Scissors, tailors' shears and similar shears, and blades therefor.**
8213.00.10		---Scissors and shears
		-----With blades of a length not exceeding 150mm:
	11	------Manicure
	19	------Other
	20	-----With blades of a length exceeding 150mm
8213.00.20	00	---Blanks
8213.00.30	00	---Blades

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For tariff purposes, it was necessary to distinguish between scissors and shears, blanks and blades. However, this does not provide sufficient detail for statistical purposes. Therefore, tariff item 8213.00.10 has been further subdivided to provide additional product detail for scissors and shears. The scissors and shears have initially been divided into two groups: those with blades of a length not exceeding 150cm and those with blades of a length exceeding 150cm. These first level statistical subdivisions are identified by five dashes preceding the product description. In addition, it was necesary to create second level subdivisions for scissors and shears with blades of a length not exceeding 150cm, to differentiate between manicure scissors or shears and other types of scissors and shears. These second level statistical subdivisions are identified by the ninth and tenth digits being a number from one to nine and by six dashes preceding the product description.

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CONSOLIDATION OF CONCESSIONARY PROVISIONS

INTRODUCTION

One of the fundamental principles of the Harmonized System is that goods are classified according to their intrinsic characteristics and not on the basis of their application or end-use. This principle was applied during the development of the Canadian HS-based tariff and statistical nomenclature, resulting in a commodity nomenclature that rarely contains provisions related to the actual end-use of certain goods.

It was, however, the intent of the Government of Canada to continue to offer beneficial rates of duty on certain goods, if used in a certain manner. Therefore, the Tariff Board and Customs (under the direction of the Department of Finance) jointly developed a consolidation of all concessionary provisions contained in the former Customs Tariff, but not provided for in the Canadian HS-based nomenclature.

This consolidation has been designed as an Annex to the nomenclature, and has been divided into eight main sections, each with a similar format.

Each provision is identified by a unique, four-digit code. If the benefits of the provision are to be claimed at the time of importation, the Annex Code must be shown in the designated field on the B3 accounting document. The Customs Commercial System will then calculate the amount of duty based on the concessionary rate conferred by the Annex Code. The System will not accept Annex Codes used in conjunction with importations subject to General Tariff Treatment, as the rate reductions do not apply to the General Tariff Treatment.

This chapter discusses each category of concessionary provisions contained in the Annex.

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STATUTORY PROVISIONS - CODES 0000 - 2999

The Statutory Concessionary Provisions comprise the first section of the Consolidation of Concessionary Provisions (commonly referred to as the Annex). It encompasses a wide variety of concessionary provisions which have been organized according to industrial sector. Like the HS-based nomenclature, these provisions have been legislated through the passage of a Ways and Means Motion. Amendments, additions and deletions are legislated in the same manner and, generally, are introduced in a Federal Budget.

For the most part, these provisions are conditional upon the goods being used in a certain manner, or by a particular end-user. The provisions may be fairly broad, and may apply generally throughout a Section, Chapter or heading.

Example: 0720 - **Gasket stock,** impregnated, coated or covered, of Chapter 48, for use in the manufacture of gaskets, washers, sealing strips or other sealing articles and materials.

0250 - **Goods** of Chapter 28 or 29 for use in the manufacture of steroid derivatives.

In other cases, the provisions are more specific and apply only to goods of certain subheadings, and may, in some cases, specify that the goods be of a class or kind not made in Canada or must be unavailable from production in Canada.

Example: 1900 **Ball or roller bearings,** of a class or kind not made in Canada, of heading No. 84.82, and **parts** thereof of subheading No. 8482.91 or 8482.99, not specified or included elsewhere in this Annex.

There are also provisions that specify that the goods must meet specific conditions, such as age.

Example: The following, manufactured more than 30 years prior to accounting, under such regulations as the Minister may prescribe with respect to the proof of age.

[illegible]0- **Reception apparatus for radio-broadcasting** of heading No. 85.27

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Other provisions may not specify any conditions, but apply only to certain articles covered by general headings, subheadings or tariff items.

Example: 1090- **Church vestments** of heading No. 61.14 or 62.11 and **parts** thereof of heading No. 61.17 or 62.17.

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TEMPORARY CONCESSIONARY PROVISIONS - CODES 3000-6999

Like the Statutory Concessionary Provisions, the Temporary Concessionary Provisions provide a reduction or removal of the rate of duty imposed on certain goods, provided specific conditions are met. Unlike the Statutory Provisions, however, they are implemented through the passage of an Order-in-Council (pursuant to Division I, Part II of the Customs Tariff), and may be introduced at any time throughout the year.

The second section of the Annex features the same systematic order as does the first section, in that the provisions contained therein are grouped according to industrial sector.

As the name denotes, these provisions are valid only for a specified period of time. A table showing the implementation and expiry dates of each provision is located at the front of the nomenclature. These dates have not been printed with the text of the provision, to avoid having to re-print the entire section each year, as most provisions are extended annually.

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CHEMICALS AND PLASTICS CONCESSIONARY PROVISIONS - CODES 7000-7999

The Chemicals and Plastics Concessionary Provisions constitute the third section of the Annex. Like the Temporary Concessionary Provisions, they are implemented through the passage of an Order-in-Council under Division I of Part II of the Customs Tariff. Additions and deletions are usually made once a year.

The provisions may relate, unconditionally, to all goods of a particular tariff item.

Example: 7000- **Goods** of tariff item No. 1519.30.90

In other cases, they provide a removal or reduction of duty on only certain products of a particular tariff item.

Example: 7015- **Helium** of tariff item No. 2804.29.00

They may also provide a rate reduction if the goods of certain tariff items are used in a specified manner.

Example: 7500- **Goods** of tariff item No. 2915.31.00 for use in the manufacture of printing inks and packaging materials.

7866- **Polyethylene terephthalate** of tariff item No. 3907.60.00, excluding compositions, for use in the manufacture of blow-moulded carbonated beverage bottles.

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MACHINERY PROGRAM CONCESSIONARY PROVISIONS - CODE 8000

The section of the Annex that deals with the Machinery Program simply lists the tariff items that are eligible for the provisions of this program.

Although code 8000 is used throughout Schedule I of the Tariff and in the Annex to identify the tariff items that are eligible for the Machinery Program, this code is never used in the "Annex Code" field on B3 accounting documents.

To determine whether a specific machine or piece of equipment qualifies for remission, Customs Memorandum D8-5-1 must be referred to. Schedule I of Appendix A to this memorandum lists the machinery and equipment that has been determined by the Minister of National Revenue to be unavailable from Canadian production. Beside each product description is a unique, fourteen digit code. The first ten digits of this code make up the classification number for the product. The last four digits are used in the "Annex Code" field on the B3 to provide the rate reduction.

Schedule II of Appendix A to Memorandum D8-5-1 lists the machinery and equipment that the Minister of National Revenue has determined to be avaliable from production in Canada and, therefore, is not eligible for the benefits of the Machinery Program.

If an importer disagrees with the Minister's findings with respect to a machine or piece of equipment listed in Schedule II, or if an importer wishes to apply for remission of duty on a machine or equipment not listed in either Schedules I or II, he or she may submit a Machinery Remission Application under the provision of Section 72 of the Customs Tariff. Remissions granted in this way are assigned a Duties Relief Act authority number which is quoted in the "Special Authority" field on the B3 accounting document to provide the rate reduction. In cases such as these, no code will appear in the "Annex Code" field on the B3.

For more information concerning the Machinery Program, refer to Customs Memorandum D8-5-1.

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HOME CONSUMPTION DRAWBACK PROVISIONS - CODES 9000-9299

To provide a complete, neutral conversion of the former Canadian Customs Tariff to an HS-based tariff and statistical nomenclature, the Home Consumption Drawback Provisions, previously contained in Schedule B of the Customs Tariff, have been included in the Consolidation of Concessionary Provisions.

The main difference between these and the other concessionary provisions contained in the Annex is that Home Consumption Drawbacks are not granted at the time of importation. Rather, the applicable duty is paid, and a claim for drawback is submitted at a later date, once the special use, specified in the provision, can be proven. In addition, rather than lowering the rate of duty that is imposed by the tariff, these provisions specify the percentage of the duty that may be drawn back.

Home Consumption Drawbacks can be divided into two groups: Statutory Home Consumption Drawbacks and Temporary Home Consumption Drawbacks. These provisions have been separated into two distinct sections within the Annex, and while each category serves the same purpose, they differ from each other in two respects, i.e., the way they are brought into force, and their duration.

Statutory Home Consumption Drawback Provisions - Codes 9000-9199

The primary legislative authority for these provisions is contained in Division II of Part II of the Customs Tariff, and are brought into force through a Ways and Means Motion, generally at the time a federal budget is introduced.

These provisions have no expiry date, although the applicants must submit their claims for drawback within a specified period of time.

Temporary Home Consumption Drawback Provisions - Codes 9200-9299

Like the Statutory Home Consumption Drawbacks, the primary legislative authority for the Temporary Home Consumption Drawbacks is contained in Division II of Part II of the Customs Tariff. However, amendments, additions and deletions may be made to these provisions through subordinate legislation, i.e., the passage of an Order-in Council.

Also, as the title denotes, these provisions are valid only for a specified period of time. To be eligible for drawback, the goods must be released from Customs control prior to the expiry date shown in the Schedule.

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AGREEMENT ON TRADE IN CIVIL AIRCRAFT PROVISIONS - CODES 9300-9399

The Agreement on Trade in Civil Aircraft eliminates all customs duties and any similar charges of any kind on civil aircraft, aircraft parts and repairs on civil aircraft. These "zero" rates of duty are "bound" under the GATT.

The agreement contains an Annex which lists the articles that are to be accorded duty free entry. Because a large number of the goods listed attract a rate of duty under the Canadian tariff, it was necessary to incorporate these provisions in the Consolidation of Concessionary Provisions.

The provisions were legislated in the same Ways and Means Motion as the HS-based tariff and statistical nomenclature. Any amendments, additions or deletions will be legislated in the same manner.

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AUTOMOTIVE PRODUCTS TRADE AGREEMENT PROVISIONS - CODES 9400-9499

The Automotive Products Trade Agreement (commonly referred to as Auto Pact) provides for the duty free entry of automobiles, buses or specified commercial vehicles, certain parts and accessories and parts thereof, when imported for use as original equipment in automobiles, buses or specified commercial vehicles to be produced in Canada by manufacturers of automobiles, buses or specified commercial vehicles.

Because this removal of duty is conditional upon the meeting of certain criteria by a specified importer, the provisions were included in the Consolidation of Concessionary Provisions. The four-digit Annex Code is used to accommodate the removal of duty allowed by the Agreement.

This section of the Annex features the same format as sections 1,2,3,4, and 7. Although the column for GPT has been retained in this section, it is not used, as goods from GPT countries are not entitled to the benefits of the Automotive Products Trade Agreement.

This section is unique, however, in that the text of the Motor Vehicles Tariff Order, 1965 has been reprinted (with the exception of the Schedule). This Order in its entirety, along with guidelines and general information, can also be found in Customs Memorandum D10.

PART 3

COMPLEMENTARY PUBLICATIONS TO THE CANADIAN TARIFF AND IMPORT STATISTICS NOMENCLATURE

Manual Introduction to the Canadian Tariff and Import Statistics Nomenclature	**Part** 3.0.0 Complementary Publications to the Canadian Tariff and Import Statistics Nomenclature
Chapter 3.1.0 Introduction	**Section**

INTRODUCTION

The Harmonized System is supported by a number of complementary publications and reference materials. The purpose of these publications and materials is to promote the accurate and consistent interpretation of the HS nomenclature. They can be separated into two categories: those that have been developed under the sponsorship of the Customs Co-operation Council and have received approval of the Council, and those that have been developed by Canada to fulfill unique Canadian requirements pertaining to classification under the HS.

Publications endorsed by the CCC include the Explanatory Notes to the Harmonized System (CCC Explanatory Notes), the Alphabetical Index to the Harmonized System and to the Explanatory Notes, and a Compendium of Harmonized System Classification Opinions. Technical references developed by Canada include Canadian Explanatory Notes.

Both the CCC complementary publications and the Canadian complementary publications have been developed to assist users of the Harmonized System in the correct and consistent interpretation of the nomenclature and to ensure the accurate classification of goods in the HS.

Each of these complementary publications is described briefly in this Part.

Manual Introduction to the Canadian Tariff and Import Statistics Nomenclature	**Part** 3.0.0 Complementary Publications to the Canadian Tariff and Import Statistics Nomenclature
Chapter 3.2.0 Explanatory Notes	**Section**

EXPLANATORY NOTES

Introduction

The Explanatory Notes are not part of the legislated body of the HS-based Tariff and Statistical Classification System and, therefore, are not legally binding on Importers/Brokers or the Department. However, the Explanatory Notes constitute the official interpretation of the HS, as approved by the Customs Co-operation Council, and have been adopted by Canada as the basis of official administrative policy for the Canadian HS-based Nomenclature.

Although the Explanatory Notes are to be used as administrative policy in correctly interpreting the HS nomenclature, it must be recognized that the Explanatory Notes are not an exhaustive source of information on the overall scope of the headings and subheadings. They must, therefore, always be read in strict conformity with the Legal Core of the HS, in particular with the Interpretative Rules and the Section and Chapter Notes.

In terms of format, the Explanatory Notes feature the same systematic order as the HS nomenclature itself, and may pertain to the Section, Chapter, heading and subheading levels. For ease of reference, all legal Notes are provided at the beginning of the Sections and Chapters to which they pertain.

In terms of content, the Explanatory Notes provide a commentary on the scope of each heading, giving a list of the products included and excluded, together with technical descriptions of the goods concerned (their appearance, properties, method of production and uses) and practical guidance for their identification.

This chapter discusses each type of Explanatory Note in detail.

Section Explanatory Notes

Explanatory Notes to the Section appear directly after any legal Notes* that apply to that Section. They may pertain specifically to the legal Notes provided for the Section or they may describe in detail the types of goods that can be included in the various Chapters, headings and subheadings covered by that Section.

* All international legal Notes have been reprinted in the Explanatory Notes.

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In Section XVII, certain Explanatory Notes pertain to the Section in a general sense, while others pertain to specific groups of goods that are covered by the Section. Explanatory Notes for this Section read, in part, as follows:

GENERAL

(I) GENERAL CONTENT OF THE SECTION

This Section covers railway vehicles of all types and hovertrains (Chapter 86), other land vehicles, including air-cushion vehicles (Chapter 87), aircraft and spacecraft (Chapter 88) and ships, boats, hovercraft and floating structures (Chapter 89), except the following:

(a) Certain mobile machines (see Part (II) below).

(b) Demonstrational models of heading 90.23.

(c) Toys, certain winter sports equipment, and vehicles for fairground use. The Section excludes, for example, toy cycles (other than bicycles), pedal cars, etc., designed to be ridden by children, toy boats and aircraft (heading 95.01 or 95.03); bobsleighs, toboggans and the like (heading 95.06); "dodge'em" cars (heading 95.08).

In addition, the Section includes certain specified items of associated transport equipment such as containers specially designed and equipped for carriage by one or more modes of transport, certain railway or tramway track fittings and fixtures, and mechanical (including electro-mechanical) signalling equipment (Chapter 86) and parachutes, aircraft launching gear, deck-arrestor or similar gear and ground flying trainers (Chapter 88).

Subject to the provisions of Part (III) below, the Section also covers parts and accessories of the vehicles, aircraft, etc., of Chapters 86 to 88.

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(II) SELF-PROPELLED OR OTHER MOBILE MACHINES

Many machines or equipment (in particular of the type falling in Section XVI) can be mounted on the vehicle chassis or on the floating bases of Section XVII; the classification of the resultant mobile machine depends on various factors, in particular on the type of base.

For example, all mobile machines, formed by mounting a machine on a floating base are classified in Chapter 89 (e.g., floating cranes, dredgers, grain elevators, etc.). For the classification of mobile machines formed by mounting equipment on a vehicle chassis of Chapter 86 or 87, see the Explanatory Notes to heading 86.04, 87.01, 87.05, 87.09 or 87.16.

Part I of these Explanatory Notes defines the scope of Section XVII in general terms by identifying the types of conveyances covered by the Section and by listing exceptions such as toy cycles, bobsleighs, toboggans and the like.

Part II of the Section Explanatory Notes deals specifically with how to go about classifying machines or equipment that are mounted on the vehicle chassis or floating bases covered by Section XVII.

Part III of these Explanatory Notes (not re-printed due to its length) defines the scope of the Section with specific reference to parts and accessories.

Therefore, the Explanatory Notes for Section XVII first provide users with general information relevant to the entire contents of the Section and then provide information to assist users in accurately interpreting particular portions of the Section with respect to specific groups of commodities, e.g., parts and accessories.

Chapter Explanatory Notes

The Chapter Explanatory Notes follow any legal Notes that apply to the Chapter. These Notes may provide an explanation of the general arrangement of the Chapter, definitions of terms and expressions encountered, or general information relating to the classification of goods within the Chapter. They are identified by the title "GENERAL".

The following is an example of a Chapter Explanatory Note:

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CHAPTER 6

LIVE TREES AND OTHER PLANTS; BULBS, ROOTS AND THE LIKE; CUT FLOWERS AND ORNAMENTAL FOLIAGE

Chapter Notes.

1. Subject to the second part of heading No. 06.01, this Chapter covers only live trees and goods (including seedling vegetables) of a kind commonly supplied by nursery gardeners or florists for planting or for ornamental use; nevertheless it does not include potatoes, onions, shallots, garlic or other products of Chapter 7.

2. Any reference in heading No. 06.03 or 06.04 to goods of any kind shall be construed as including a reference to bouquets, floral baskets, wreaths and similar articles made wholly or partly of goods of that kind, account not being taken to accessories of other materials. However, these headings do not include collages or similar decorative plaques of heading No. 97.01.

GENERAL

This Chapter covers all living plants, of a kind supplied by nursery gardeners (including horticulturists) or florists, which are in a condition suitable for planting or ornamental purposes and also chicory plants and roots, other than roots of heading 12.12, even if they are not commonly supplied by nursery gardeners or florists. These range from trees, shrubs and bushes to seedling vegetables including, inter alia, plants for medicinal purposes. The Chapter does not include seeds and fruit, or certain tubers and bulbs (potatoes, onions, shallots and garlic) for which it is not possible to make a distinction between the kinds used as food and those for planting.

The Chapter also covers:

(1) Cut flowers and flower buds, foliage, branches and other parts of plants, fresh, dried, dyed, bleached, impregnated or otherwise prepared for ornamental purposes.

(2) Bouquets, wreaths, floral baskets and similar florists' wares.

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The Explanatory Notes to Chapter 6 provide assistance in determining the scope of the Chapter by elaborating on the text of the Chapter Notes. They provide a more comprehensive listing of plants that are included in the Chapter and specify why products such as seeds, fruits and certain tubers and bulbs are excluded from the Chapter.

Heading Explanatory Notes

The Explanatory Notes to the headings follow the Chapter Explanatory Notes. The heading Explanatory Notes begin with the heading number and the text of the heading, followed by the subheading numbers and text of the subheadings. These Notes also provide information concerning inclusions and exclusions, or definitions of terms used at the heading level.

71.02 - DIAMONDS, WHETHER OR NOT WORKED, BUT NOT MOUNTED OR SET (+)*

7102.10 - Unsorted

- Industrial:

7102.21 -- Unworked or simply sawn, cleaved or bruted

7102.29 -- Other

- Non-industrial:

7102.31 -- Unworked or simply sawn, cleaved or bruted

7102.39 -- Other

Diamond is a crystalline and allotropic form of carbon with, in the pure state, a very high refractive index and dispersive power. It is the hardest known mineral. Because of these qualities diamond is used for making articles of adornment or ornamentation and also for industrial purposes (in particular, for wire drawing).

The heading covers unworked stones, and stones worked, e.g., by cleaving, sawing, bruting, faceting, grinding, polishing, drilling, engraving (including cameos and intaglios), preparing as doublets, provided they are neither set nor mounted.

* If a (+) is shown following the heading text, this indicates that there is a Subheading Note under that heading.

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The heading does not cover:

(a) Unmounted worked diamonds for styli (heading 85.22).

(b) Diamonds worked so as to be recognisable as parts of meters, of measuring instruments or of other goods of Chapter 90 (Chapter 90).

This Note begins by providing a definition of diamond and goes on to describe what is included in the heading and what is excluded from it. This Note also indicates the heading or Chapter where diamonds which have been excluded would be classified more appropriately.

Subheading Explanatory Notes

There are two main categories of Subheading Explanatory Notes: those that apply generally throughout the relevant Chapter, and those that apply to specific subheadings.

The first category is found at the end of the Chapter Explanatory Notes, and can be further broken down into two types. The first of these is used to clarify or elaborate upon a Subheading Note (an example can be found in the Explanatory Notes to Chapter 39). The second type is more general in nature, and may provide information on several or all of the subheadings in the relevant chapter (an example can be found in the Explanatory Notes to Chapter 44).

The second category immediately follows the Explanatory Notes to the particular heading under which the subheading appears. These Subheading Explanatory Notes apply to specific subheadings and, again, are used to clarify terminology and to outline inclusions and exclusions to the subheadings.

The following is the first Subheading Explanatory Note under heading No. 71.02.

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Subheading Explanatory Notes.

Subheading 7102.10

Before diamonds are marketed as "industrial" or "non-industrial" they are graded and sorted in terms of technical criteria by diamond experts. The technical criteria include size and crystallographic suitability for cutting. Account is also taken of transparency, brilliance, colour and purity of crystals.

This subheading covers those lots of diamonds which have not been submitted to such expert examination.

This Explanatory Note explains what is meant by the term "unsorted" by first describing the grading and sorting process carried out by experts to distinguish between "industrial" and "non-industrial" diamonds. The Note ends by saying that diamonds which have not been subjected to an examination by a diamond expert (and therefore have not been graded and sorted) will fall under subheading No. 7102.10, as "unsorted".

This Note provides a specific definition to a general term, for the purposes of this subheading only. Without referring to this Note, there could be doubt as to what is meant by the term "unsorted".

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Chapter 3.3.0 Canadian Explanatory Notes	**Section**

CANADIAN EXPLANATORY NOTES

As noted earlier, it was necessary for Canada to develop additional subdivisions to the HS nomenclature, to provide sufficient commodity detail to satisfy tariff and statistical requirements. To assist in the administration of these subdivisions, Canadian Explanatory Notes were developed. Like the CCC Explanatory Notes, the Canadian Explanatory Notes assist in the classification process by clarifying terms and by outlining inclusions or exclusions that may apply to the nomenclature at the various levels.

Although the majority of Canadian Explanatory Notes apply to the tariff item level of the nomenclature, they have occasionally been developed to assist in classification at the heading, subheading and statistical levels.

The format of the Canadian Explanatory Notes is consistent with that of the CCC Explanatory Notes and may be interleaved into the CCC Explanatory Notes in a logical relation to the CCC texts which they supplement.

These Notes are updated periodically, as the need arises.

The following is an example of a Canadian Explanatory Note.

Section II
$11.02_2/03_1$

CANADIAN EXPLANATORY NOTES

Tariff item No. 1103.13.10

Maize (corn) products of tariff item No. 1103.13.10 are considered to be "meal" if at least 50% by weight passes through a woven metal wire cloth sieve with an aperture of 0.707 mm. Otherwise, these products are considered to be "groats" (tariff item No. 1103.13.20 or 1103.13.90 as the case may be).

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Chapter 3.4.0 Alphabetical Index	**Section**

ALPHABETICAL INDEX

References to products and articles that are mentioned in the HS Nomenclature or CCC Explanatory Notes may be located more easily therein using the Alphabetical Index. This index lists, along with the applicable references,

(i) all goods mentioned in the legal Notes (Section and Chapter Notes including Subheading Notes) and in the headings and subheadings of the Harmonized System and,

(ii) all the goods cited or described in the CCC Explanatory Notes.

The index features a separate column for each of the following:

(i) goods - a listing by keyword

(ii) nomenclature - references to Section and Chapter Notes in which the keyword is mentioned; references to headings and subheadings in which the goods identified by the keyword may be classified or excluded from classification

(iii) explanatory - references to CCC Explanatory Notes in which the keyword is mentioned

The index will assist users in determining where in the HS goods are likely to be classified; however, being a CCC publication, it relates to the classification of goods at the six-digit subheading level and does not take into consideration Canadian subdivisions.

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Chapter 3.5.0 Compendium of HS Classification Opinions	**Section**

COMPENDIUM OF HARMONIZED SYSTEM CLASSIFICATION OPINIONS

The Harmonized System Committee, established by the CCC for the management and care of the HS, is called upon from time to time to determine the precise classification of particular products whose classification is either arguable or simply in doubt. Because each such issue is specific to a certain product, the Committee forms classification opinions in respect of such products rather than inserting a reference to them in the Explanatory Notes.

In order to promote accuracy and uniformity in the interpretation of the HS nomenclature, the Classification Opinions generated by the Committee and agreed to by the Council are published by the CCC in a Compendium.

The following is an example of Classification Opinion.

6911.90 1. Non-ornamental ashtrays, comprising a lower part (bowl) of porcelain or china and an upper part (lid) of steel which consists essentially of a rotating plate operated by pressing a push-button of plastics and of a spiral spring which returns the plate to its original position:

Classification according to the constituent material of the lower part (bowl).

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Chapter 3.6.0 Technical Reference System	**Section**

TECHNICAL REFERENCE SYSTEM

To promote the interpretation of the HS in an accurate and consistent manner, the Department has developed the Technical Reference System (TRS). The TRS is an automated system which allows Headquarters and Regional personnel ready access to a wide range of technical reference material. It is comprised of numerous files containing the details of rulings issued on imported and exported goods as well as several files containing other reference material of importance to Customs personnel. The following is a listing of all files available from the TRS.

General Rulings File
Chemicals and Plastics Rulings
Availability Rulings
Machinery Remission Policy File
Master Index of End-Use and Stocking Authorizations
Institutional Rulings File
Alphabetical Keyword Index
HS Committee Classification Opinions
Audio-Visual Articles and Prohibited Goods File
Orders-in-Council File
Tariff Board and Federal Court Rulings File
History File
Export Rulings File
Assessment Programs File
Valuation Rulings File

In order to ensure that the information contained in the TRS file is current and complete, new and amended data are entered as required. Superseded data are transposed to off-line storage in the History File. In addition, each file in the TRS is purged periodically for purposes of identifying records that are no longer applicable. Data that are found to be unnecessary as a result of the purging exercise are also moved to the History File.

Future plans with regard to the TRS include the creation of three additional files. These are the Customs Tariff File containing the complete text and numbering structure to the HS-based nomenclature, the HS Explanatory Notes containing the CCC and Canadian Explanatory Notes to the HS, and the HS Alphabetical Index containing the alphabetical index to the HS developed by the CCC. The introduction of these files will contribute to the Departmental objective of reducing the use of paper by diminishing the need for hard copy versions of the HS-based nomenclature. The Department also has plans to make the TRS available to the public as a reference tool in the near future.

PART 4

CLASSIFICATION CASE STUDIES

Manual Introduction to the Canadian Tariff and Import Statistics Nomenclature	**Part** 4.0.0 Classification Case Studies
Chapter 4.1.0 Introduction	**Section**

INTRODUCTION

The Harmonized Commodity Description and Coding System is just that: an international method of describing and coding commodities which is systematic and which can be used by other countries as the basis for developing their nomenclatures, thus producing "harmonized systems".

What makes the HS so systematic is that it is based on six General Interpretative Rules which are applied (either consciously or sub-consciously) every time a product is classified. Through application of this systematic approach to classification, it will always be possible to arrive at the correct classification number for any given product.

This final part of this Manual contains case studies which demonstrate classification based mainly on application of the Interpretative Rules. Complementary Publications, while extremely useful as reference material, have not been stressed in these case studies. This is because, in the Harmonized System, classification must be based on (and supported by) the legal core.

Manual Introduction to the Canadian Tariff and Import Statistics Nomenclature	**Part** 4.0.0 Classification Case Studies
Chapter 4.2.0 General Interpretative Rule 1	**Section**

GENERAL INTERPRETATIVE RULE 1

The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:

Product Description: Bananas, chilled

1) When attempting to locate the correct heading for a product, the HS Table of Contents may be referred to first to identify the possible Section(s) and Chapter(s) in which the product may be classified. After having identified all the possible chapters, all of the corresponding Section and Chapter Notes must be referenced.

2) One should also keep in mind certain legal Notes of other Sections or Chapters which may be applicable. A list of legal Notes which define or extend the meaning of products, terms or expressions used throughout the nomenclature is provided at the beginning of the office consolidation of the Tariff.

3) A review of the HS Table of Contents indicates that Section II, Chapter 8 covers, "Edible fruit and nuts; peel of citrus fruit or melon". This would, of course, be the most logical chapter in which to classify chilled bananas, as there are no other Chapters which warrant further consideration.

4) There is only one legal Note to Section II, but it has no relevance in the classification of chilled bananas. However, the second legal Note to Chapter 8 does apply. It reads:

> **2. Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.**

From this we know that chilled bananas are classified in the same heading as fresh bananas.

Manual	Introduction to the Canadian Tariff and Import Statistics Nomenclature	Part 4.0.0 Classification Case Studies
Chapter	4.2.0 General Interpretative Rule 1	Section

5) A review of the headings of Chapter 8 indicates that bananas are classified under heading No. 08.03, which reads:

08.03		
0803.00.00		**Bananas, including plantains, fresh or dried**
	10	-----Fresh
	20	-----Dried

6) This heading has not been further subdivided to provide any finer detail at the subheading or tariff item level, and therefore, the 5th, 6th, 7th and 8th digits are all zeros.

7) There are, however, two subdivisions at the statistical level. They are:

10 -----Fresh
20 -----Dried

If there was any doubt to what is meant by the term "dried", legal Note 2 to Section I may be referred to. This note reads as follows:

> **2. Except where the context otherwise requires, throughout the nomenclature any reference to "dried" products also covers products which have been dehydrated, evaporated or freeze-dried.**

This, of course, is not applicable to the classification of chilled bananas, which will clearly be classified under the first statistical subdivision.

8) Through the application of Rule 1, chilled bananas have been classified correctly under classification number 0803.00.00.10, based on the terms of the headings and legal Notes.

Manual	Introduction to the Canadian Tariff and Import Statistics Nomenclature	Part 4.0.0 Classification Case Studies
Chapter 4.3.0	General Interpretative Rule 2(a)	Section

GENERAL INTERPRETATIVE RULE 2(a)

Product Description: Bookcase, made of clear lacquered solid knotty pine throughout (with the exception of the backing, which is made of pine veneered particle board), easily assembled with household tools.

1) The first step in classifying this item is to search the HS Table of Contents for a Chapter or Chapters which could possibly contain a heading that provides for bookcases such as this one.

2) The Table of Contents indicates that the bookcase could possibly be classified in either of the following chapters:

Section IX, Chapter 44 - Wood and articles of wood; wood charcoal

Section XX, Chapter 94 - Furniture: bedding, mattresses, mattress supports, cushions and similar stuffed furnishings: lamps and lighting fittings, not elsewhere specified or included: illuminated signs, illuminated name plates and the like: prefabricated buildings.

3) Applying Rule 1, it is necessary first to check for any Section or Chapter Notes. There are no legal Notes to Section IX. There are however, a number of legal Notes to Chapter 44, one of which applies to this article. It is 1(o), which reads:

> **1. - This Chapter does not cover:**
> **(o) Articles of Chapter 94 (for example, furniture, lamps and lighting fittings, prefabricated buildings):**

4) Although this Note leads us to believe that the bookcase will be classified in Chapter 94, it is still worthwhile exploring Chapter 44, since it is not known at this time whether a bookcase is considered to be furniture for the purpose of classification in the HS.

Manual	Introduction to the Canadian Tariff and Import Statistics Nomenclature	Part 4.0.0 Classification Case Studies
Chapter	4.3.0 General Interpretative Rule 2(a)	Section

5) A review of Chapter 44 reveals that heading No. 44.20 does provide for certain pieces of furniture, which do not fall in Chapter 94. Bookcases, however, are not included in this heading. Therefore, it can be assumed that the bookcase will be classified in Chapter 94.

6) There are no legal Notes to Section XX, in which Chapter 94 is located.

7) There is however, one legal Note to Chapter 94 that mentions bookcases. It is Note 2, which reads:

> **2. The articles (other than parts) referred to in heading Nos. 94.01 to 94.03 are to be classified in those headings only if they are designed for placing on the floor or ground.**
>
> **The following are, however, to be classified in the above mentioned headings even if they are designed to be hung, to be fixed to the wall or to stand one on the other:**
>
> **(a) Cupboards, bookcases, other shelved furniture and unit furniture;**
> **(b) Seats and beds.**

Although it is not known whether this bookcase is designed to be placed on the floor, hung on the wall or to stand one on the other, it will probably not be necessary to obtain this information since it would appear from this legal Note that classification is not dependent on these aspects.

8) Next, reviewing the terms of the Headings of Chapter 94, in accordance with Rule 1, it is clear that there is no specific provision for unassembled bookcases. It is necessary therefore, to consult the remaining Interpretative Rules to determine how the bookcases are to be classified.

9) Rule 2(a) states that:

> **Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete**

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or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

This means that, although the bookcase is in a unassembled state, it can be classified as if it were assembled.

10) There are no headings within Chapter 94 that provide specifically for assembled bookcases. Therefore, the bookcases will fall under heading No. 94.03, which reads:

94.03 Other furniture and parts thereof.

11) Once having identified the correct heading, the next step is to determine the appropriate subheading.

94.03		**Other furniture and parts thereof.**
9403.10		**- Metal furniture of a kind used in offices**
9403.10.10	00	---Filing cabinets
9403.10.90		---Other
	10	-----Desks
	20	-----Tables, excluding tracing tables
	30	-----Lockers
	40	-----Other record-keeping equipment
	90	-----Other
9403.20.00		**-Other metal furniture**
		-----Beds and cots, excluding children's furniture:
	11	------Beds
	12	------Cots
		-----Cabinets:
	21	------Medicine or vanity cabinets
	29	------Other
	30	-----Fireplace screens and wood holders
	40	-----Card tables
	50	-----Outdoor furniture

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	60	-----Shelving
	70	-----Show-cases
	80	-----Children's indoor furniture
		-----Other:
	91	------Living room furniture
	92	------Bedroom furniture
	93	------Dining room furniture
	94	------Kitchen or dinette furniture
	95	------School furniture
	96	------Auditorium or theatre furniture
	99	------Other
9403.30		**-Wooden furniture of a kind used in offices**
9403.30.10		---Desks, record-keeping equipment and tables
	10	-----Desks
	20	-----Record-keeping equipment
	30	-----Tables, excluding tracing tables
	40	-----Other tables
9403.30.90		---Other
	10	-----Lockers
	90	-----Other
9403.40.00		**-Wooden furniture of a kind used in the kitchen**
	10	-----Kitchen cabinets
	90	-----Other
9403.50		**-Wooden furniture of a kind used in the bedroom**
9403.50.10		---Cribs and bunk beds
	10	-----Cribs
	20	-----Bunk beds
9403.50.90	00	---Other
9403.60.00		**-Other wooden furniture**
	10	-----Desks, excluding children's furniture
	20	-----Cedar chests
		-----Cabinets:
	31	------Medicine or vanity cabinets
	39	------Other
	40	-----Outdoor furniture
	50	-----Show-cases
	60	-----Shelving

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	70	-----Children's indoor furniture
		-----Other:
	91	------Living room furniture
	92	------Dining room furniture
	93	------Church furniture
	94	------School furniture
	95	------Auditorium or theatre furniture
	99	------Other
9403.70.00		**-Furniture of plastics**
	10	-----Household furniture
	90	-----Other
9403.80.00		**-Furniture of other materials, including cane, osier, bamboo or similar materials**
	10	-----Household furniture
	90	-----Other
9403.90		**-Parts**
9403.90.10		---Of metal
	10	-----Frames other than builders' fittings
	90	-----Other
9403.90.90		---Other
	10	-----Knobs and pulls
	20	-----Frames other than builders' fittings
	30	-----Table and counter tops
	90	-----Other

12) Interpretative Rule 6 states (in part) that only subheadings at the same level are comparable. Therefore, the appropriate one-dash subheading must be identified. There are 9 subheadings at this level:

9403.10 - Metal furniture of a kind used in offices
9403.20 - Other metal furniture
9403.30 - Wooden furniture of a kind used in offices
9403.40 - Wooden furniture of a kind used in the kitchen
9403.50 - Wooden furniture of a kind used in the bedroom
9403.60 - Other wooden furniture

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9403.70 - Furniture of plastics
9403.80 - Furniture of other materials, including cane, osier, bamboo or similar materials
9403.90 - Parts

13) After reviewing all the above subheadings, several, such as subheading Nos. 9403.10, 9403.20, 9403.70, 9403.80 and 9403.90 can be eliminated immediately, as they do not pertain to the subject bookcase.

14) Although most bookcases are designed for use in a den or living room, they could reasonably be placed in an office, a bedroom, a kitchen or any other room. Therefore, subheading Nos. 9403.30, 9403.40, 9403.50 and 9403.60 are all possible subheadings.

15) At this point, it may be necessary to obtain additional information from the importer or broker as to the intended use or proposed location of the bookcase. In some situations though, even the importer may not know this information, as in the case of wholesalers or retail outlets.

16) Interpretative Rule 3 states that if it appears that goods are classified under two or more headings, classification shall be effected by: (a) the most specific description, (b) essential character or (c) the heading which occurs last in numerical order.

Although Rule 3 is written for application at the heading level, Interpretative Rule 6 extends this principle to the subheading level.

17) Because of the versatility of the bookcase, one subheading cannot be considered to be more specific than the others. For much the same reason, no one subheading identifies the essential character of the bookcase.

18) Therefore, Rule 3(c) may be applied and the bookcase will fall under the subheading which appears last in numerical order. This is subheading No. 9403.60, "Other wooden furniture".

19) This subheading has not been further subdivided at the tariff item level to provide finer commodity detail; hence, the 7th and 8th digits are zeros.

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20) There are, however, quite a number of subdivisions at the statistical level. On the basis of Canadian Rule 2, only statistical subdivisions at the same level are comparable. First to be identified then, is the applicable five-dash statistical subdivision. The subdivisions at this level are:

-----Desks, excluding children's furniture
-----Cedar chests
-----Cabinets
-----Outdoor furniture
-----Show-cases
-----Shelving
-----Children's indoor furniture
-----Other

21) The first seven subdivisions do not describe the subject bookcase and, therefore, the last statistical subdivision will apply.

22) Under "Other", there are 8 six-dash subdivisions:

91 ------Living room furniture
92 ------Dining room furniture
93 ------Children's furniture
94 ------Church furniture
95 ------School furniture
96 ------Auditorium or theatre furniture
97 ------Special purpose furniture
99 ------Other

23) Unless the bookcase is designed in such a manner that only one of these subdivisions could apply, it would fall under the category of "Other".

24) Therefore, by application of the Interpretative Rules, the correct Classification No. which is 9403.60.00.99 has been arrived at.

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GENERAL INTERPRETATIVE RULE 3(a)

Product Description: Unframed laminated safety glass, shaped and identifiable as being intended for use as port hole windows in aircraft.

1) First, by application of Interpretative Rule 1, headings must be located which could possibly provide for this product.

A review of the HS Table of Contents indicates that the safety glass could potentially be classified in the following Chapters:

a) Section XIII, Chapter 70; Glass and glassware

b) Section XVII, Chapter 88; Aircraft, spacecraft and parts thereof.

Therefore, both possibilities must be explored thoroughly to determine the correct classification.

2) Classification within Chapter 70 may be considered first.

3) There are no legal Notes to Section XIII and, therefore, the next step is to read the Chapter Notes. Safety glass, such as described above, has not been excluded from the Chapter and there are no conditions specified which could affect its classification.

The next step is to explore the Chapter, searching for headings which provide for this product.

4) A review of the headings contained in Chapter 70 indicates that laminated safety glass is provided for by heading No. 70.07, which reads as follows:

70.07 Safety glass, consisting of toughened (tempered) or laminated glass

Next, classification within Chapter 88 must be considered.

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5) There are a number of legal Notes to Section XVII, only one of which could apply to laminated safety glass for aircraft. This is Note 3, which reads as follows:

> **References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.**

The subject safety glass is sufficiently advanced in manufacture to be irrevocably committed to use in an aircraft and is therefore not excluded by this Note.

6) As there are no legal Notes to Chapter 88, the next step is to explore the Chapter, searching for headings which may provide for safety glass for aircraft windows.

7) A review of the headings in Chapter 88 reveals that there are none which provide specifically for this product. It could, however, fall under heading No. 88.03, which reads as follows:

88.01		**Balloons and dirigibles; gliders, hang gliders and other non-powered aircraft.**
88.02		**Other aircraft (for example, helicopters, airplanes); spacecraft (including satellites) and spacecraft launch vehicles.**
88.03		**Parts of goods of heading No. 88.01 or 88.02.**

8) Therefore, the safety glass for aircraft windows could fall under either heading 70.07 or 88.03.

9) Rule 3(a) states that if, at first glance, goods are classifiable under two or more headings, classification shall be determined according to the heading which provides the most specific description of the goods. The next step then, is to determine which of the two headings provides the most specific description for laminated safety glass for aircraft windows.

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10) Heading No. 70.07 mentions a specific product; "safety glass, consisting of.....laminated glass", which is a precise description of the product being classified.

Heading No. 88.03 provides for a large number of very different articles, but specifies that they must be "parts" of certain aircraft, etc.

11) In determining whether one heading describes a product more specifically than another, it is the Department's policy (based on the intent of the CCC) that a description by name is more specific than a description by class.

Therefore, heading No. 70.07 is considered to be more specific than 88.03, and it is under this heading that the safety glass must be classified. The next step is to classify the safety glass at the subheading level.

The various subdivisions relating to heading No. 70.07 are shown below:

70.07		**Safety glass, consisting of toughened (tempered) or laminated glass.**
7007.11		**-Toughened (tempered) safety glass:** **--Of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels**
		---For vehicles:
7007.11.11	00	----Railway vehicles
7007.11.19	00	----Other
7007.11.20	00	---For aircraft
7007.11.30	00	---For spacecraft or vessels
7007.19.00		**--Other**
	10	-----Having an absorbent or reflecting layer
		-----Other, coloured throughout the mass:
	21	------White
	29	------Other
		-----Other, colourless:
	31	------Of a thickness not exceeding 3mm

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	32	------Of a thickness exceeding 3mm but not exceeding 6mm
	33	------Of a thickness exceeding 6mm
		-Laminated safety glass:
7007.21		**--Of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels**
		---For vehicles:
7007.21.11	00	----Railways vehicles
7007.21.19	00	----Other
7007.21.20	00	---For aircraft
7007.21.30	00	---For spacecraft or vessels
7007.29.00		**--Other**
		-----Tempered:
	11	------Flat
	19	------Other
	20	-----Not tempered

12) Interpretative Rule 6 states (in part) that only subheadings at the same level are comparable. Therefore, the process of classification cannot be continued until classification at the one-dash subheading level has been established.

13) A review of this heading and all of its subdivisions at the various levels indicates that there are two subdivisions at the one-dash subheading level. These are "Toughened (tempered) safety glass" and "Laminated safety glass".

14) The second one-dash subheading is, of course, applicable in this instance, as the description of the safety glass includes the term "laminated".

15) This one-dash subheading is followed by two two-dash subheadings, No. 7007.21, which reads, "Of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels", and No. 7007.29, which reads simply "Other".

Again, on the basis of Interpretative Rule 6, these two two-dash subheadings are comparable.

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16) The subject safety glass will fall under the first two-dash subheading, which provides the more accurate product description. The safety glass may now be classified at the tariff item level.

17) By application of Canadian Rule 1, equal consideration must be given to the three-dash tariff items which appear under subheading No. 70.07. The first reads, "For vehicles"; the second reads, "For aircraft"; and the third reads, "For spacecraft or vessels".

The second three-dash tariff item, No. 7007.21.20, is applicable. This tariff item has not been further sub-divided at the statistical level, which means the 9th and 10th digits are zeros.

18) The Explanatory Notes to Section XVII can be referred to, as confirmation that Classification No. 7007.21.20.00 is indeed the correct classification. Reference to this note earlier in the case study was omitted intentionally. This was done to avoid promoting the use of the Complementary Publications as the basis for classification rather than the legal core of the Harmonized System. A portion of the Explanatory Notes to Section XVII pertain specifically to the classification of parts and accessories within the Section. Part (C) of this portion of these Explanatory Notes reads (in part):

> **(C) Parts and accessories covered more specifically elsewhere in the Nomenclature.**
>
> **Parts and accessories, even if identifiable as for the articles of this Section, are excluded if they are covered more specifically by another heading elsewhere in the Nomenclature, e.g.:**
>
> **(8) Unframed safety glass consisting of toughened or laminated glass, whether or not shaped (heading No. 70.07).**

19) By applying the principles of the Interpretative Rules and the legal Notes and by referring to the Explanatory Notes, it has been determined that the classification No. for this product is 7007.21.20.00.

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GENERAL INTERPRETATIVE RULE 3(b)

Product Description: Vinyl covered gypsum wallboard

1) The most fundamental aspect of classifying goods is understanding what the goods are. If there is any doubt, various technical references should be used. The Oxford dictionary defines gypsum as "Hydrated calcium sulfate, mineral used to make plaster of paris or as a dressing for crop-land".

2) Once it is understood precisely what the goods are, the process of classification can begin.

3) First, Interpretative Rule 1 must be applied, and headings which could possibly cover the subject wallboard must be sought. It is evident from the product description that the wallboard is a composite article and, therefore, each constituent material must be taken into consideration when searching for possible headings.

4) A review of the HS Table of Contents and the legal Notes of all possible Sections and Chapters indicates that the wallboard might be classified in one of the following chapters:

   Section VII, Chapter 39 - Plastics and articles thereof
   Section XIII, Chapter 68 - Articles of stone, plaster, cement, asbestos, mica or similar articles

   Therefore, both possibilities must be explored thoroughly.

5) First, consideration may be given to classification within Chapter 39.

6) There are no applicable legal Notes to Section VII, nor are there any legal Notes to Chapter 39 which could affect the classification of vinyl covered gypsum wallboard and, therefore, the next step is to review the Chapter, in search of an appropriate heading. A review of all of the headings within Chapter 39 reveals that there are none which provide specifically for vinyl covered gypsum wallboard.

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Now, consideration may be given to classification within Chapter 68.

7) There are no legal Notes to Section XIII, and there are no applicable Chapter Notes. A review of Chapter 68 shows that there are no headings which provide specifically for vinyl covered gypsum wallboard.

8) Since it has not been possible to arrive at a heading which adequately describes vinyl covered gypsum wallboard by using only the text of the headings and legal Notes, classification of this product cannot be based solely on Interpretative Rule 1. Therefore, consideration must be given to the other Rules.

9) Classification on the basis of Rule 2(a) can be dismissed immediately, as the wallboard is a complete, finished product.

10) However, Rule 2(b) states that:

> **Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.**

Under the terms of this Rule, headings in which there is a reference to goods of a given material or substance can also cover those goods when mixed or combined with other materials or substances. This means that a heading which covers articles of gypsum could be extended to include articles of gypsum that have been mixed or combined with other materials or substances, such as vinyl. It also means, that the applicable heading for vinyl goods could be extended to include goods of vinyl that have been combined with other materials or substances, such as gypsum wallboard.

11) Therefore, the next step is to identify such headings in Chapters 39 and 68. A review of the Chapters indicate that the most appropriate headings are:

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68.09 Articles of plaster or of compositions based on plaster.

and

39.25 Builders' ware of plastics, not elsewhere specified or included.

12) To determine the correct classification of composite goods, Rule 2(b) requires that the principles of Rule 3 be applied.

13) Rule 3, in its entirety, reads as follows:

> **"When by application of Rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:**
>
> **(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.**
>
> **(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.**
>
> **(c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration."**

14) Although it may be argued that one of these headings (39.25 or 68.09) may be more specific than the other, each refers to only part of the wallboard. Therefore, Rule 3(a) states that the headings are equally specific, and consideration must be given to Interpretative Rule 3(b).

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15) Basically, Rule 3(b) states that if rule 3(a) fails, the goods are to be classified according to the material or component which gives them their essential character.

16) In determining the essential character of the vinyl covered gypsum wallboard, one must consider how it is referred to, or regarded. It would more likely be described as being gypsum wallboard covered with vinyl, rather than vinyl backed with gypsum wallboard. From this it can be inferred that the fact that this article is a wallboard made of gypsum, is what gives it its essential character. The fact that the wallboard is covered with vinyl is merely a further description of the article itself.

17) Therefore, this product can be classified on the basis of Interpretative Rule 3(b), as an article of plaster or of compositions based on plaster, under heading No. 68.09. The next step then, is to classify the wallboard through the subheading and tariff levels to the statistical level.

68.09		**Articles of plaster or of compositions based on plaster.**
		- Boards, sheets, panels, tiles and similar articles, not ornamented:
6809.11.00		**-- Faced or reinforced with paper or paperboard only**
	10	-----Gypsum lath
	20	-----Gypsum wallboard
	90	-----Other
6809.19.00	**00**	**-- Other**
6809.90		**- Other articles**
6809.90.10	00	---Models or casts of the type used in the manufacture of dental prostheses
6809.90.90	00	---Other

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18) Interpretative Rule 6 states (in part) that only subheadings at the same level are comparable. Therefore, in determining the correct subheading, we must identify the correct one-dash subheading. There are two one-dash subheadings under heading No. 68.09. The first reads, "Boards, sheets, panels, tiles and similar articles, not ornamented". The second reads, "Other articles". The subject wallboard will of course be covered by the first one-dash subheading.

19) Under this one-dash subheading, there are two two-dash subheadings which must be given equal consideration (again, according to Rule 6). The first is subheading No. 6809.11, which reads, "Faced or reinforced with paper or paperboard only". The second is No. 6809.19, which reads simply "Other". Neither of these subheadings have been further subdivided at the tariff item level and, therefore, the 7th and 8th digits are zeros.

20) Although this wallboard may be reinforced with paper or paperboard, it is also covered with vinyl. Because of this fact, it is excluded from tariff item No. 6809.11.00 and will, therefore, fall under tariff item No. 6809.19.00. This tariff item has not been further subdivided at the statistical level; hence, the 9th and 10th digits are zeros.

21) By applying the principles of the Interpretative Rules, it has been determined that the correct classification Number for vinyl covered gypsum wallboard is 6809.19.00.00.

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Chapter 4.6.0	General Interpretative Rule 3(c)	Section

GENERAL INTERPRETATIVE RULE 3(c)

Product Description: Frozen meatloaf mixture, made up of equal parts of ground beef and ground pork.

1) The Table of Contents to the HS indicates that this meatloaf mixture will probably be classified in Section I, Chapter 2; Meat and edible meat offal.

2) There are no legal Notes to Section I that apply to the classification of this product. There is, however, one legal Note to Chapter 2, which outlines products which are excluded from the chapter. As neither of the components of the subject meatloaf mixture is excluded, the chapter may be explored for a heading which provides for this product.

3) A review of all the headings of Chapter 2 indicates that there are none which provide specifically for this mixture of meats. Therefore, the meatloaf mixture cannot be classified solely on the basis of Interpretative Rule 1 and consideration must be given to the other Rules.

4) Rule 2(a) can be dismissed, as it does not apply to the subject product, which is complete.

5) Rule 2(b), however, will apply to this product, which is a mixture of two types of meat. Accordingly, the meatloaf mixture will be classified on the basis of Interpretative Rule 3.

6) Rule 3(a) states that the product will be classified according to the heading which provides the most specific description. Therefore, all possible headings must be identified.

7) a) Frozen ground beef - This would probably be classified under heading No. 02.02, which reads **"Meat of bovine animals, frozen".**

   b) Frozen ground pork - This appears to fall under heading No. 02.03, which reads **"Meat of swine, fresh, chilled or frozen".**

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8) Rule 3(a), however, goes on to say that headings which refer to only part of the article being classified are considered to be equally specific.

Therefore, by application of Rule 3(a), headings 02.02 and 02.03 are regarded as being equally specific, as each refers to only part of the meatloaf mixture, and consideration must be given to Rule 3(b).

9) Rule 3(b) states that if it is not possible to classify goods according to Rule 3(a), the goods should be classified according to the component that gives them their essential character. In the case of a product such as the subject meatloaf mixture, however, it is impossible to determine which of the two meats gives the mixture its essential character, as they are both equal in quantity, and neither one has a character which overwhelms the other in terms of flavour or value, etc. Therefore, Rule 3(c) must be considered.

10) Rule 3(c) states that if it is impossible to reach classification by Rule 3(a) or 3(b), the goods shall be classified under the heading which occurs last in numerical order among those which merit consideration equally.

11) Therefore, heading No. 02.03 will be the heading under which the subject frozen meatloaf mixture will fall.

12) The next step, once having classified the product at the heading level, is to proceed with the classification process through the subheading, tariff and statistical levels.

02.03		**Meat of swine, fresh, chilled or frozen**
		-Fresh or chilled:
0203.11.00	**00**	**--Carcasses and half-carcasses**
0203.12.00		**--Hams, shoulders and cuts thereof, with bone in**
	10	-----Hams and cuts thereof
	20	-----Shoulders and cuts thereof
0203.19.00		**--Other**
	10	-----Spare ribs
	20	-----Back ribs
	90	-----Other

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		-Frozen:
0203.21.00	**00**	**--Carcasses and half-carcasses**
0203.22.00		**--Hams, shoulders and cuts thereof, with bone in**
	10	-----Hams and cuts thereof
	20	-----Shoulders and cuts thereof
0203.29.00		**--Other**
	10	-----Spare ribs
	20	-----Back ribs
	90	-----Other

13) Interpretative Rule 6 states (in part) that only subheadings at the same level are comparable. There are only two one-dash subheadings to compare under heading No. 02.03. They are:

-Fresh or chilled
-Frozen

14) The second one dash subheading provides the appropriate description. Next to be determined is the applicable two-dash subheading. There are three subheadings at this level:

0203.21 --Carcasses and half carcasses
0203.22 --Hams, shoulders and cuts thereof, with bone in
0203.29 --Other

15) Neither subheading No. 0203.21 nor 0203.22 provides (even in part) for the ground meat mixture. Therefore, it will fall under subheading No. 0203.29.

16) This subheading has not been further subdivided to provide any finer detail at the tariff item level. Therefore, the 7th and 8th digits are zeros.

17) There are, however, three subdivisions at the statistical level:

0203.29.00.10 -----Spare ribs
0203.29.00.20 -----Back ribs
0203.29.00.90 -----Other

18) As neither of the first two classification numbers apply to the subject meatloaf mixture, it will of course fall under Classification Number 0203.29.00.90.

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GENERAL INTERPRETATIVE RULE 4

Product Description: "Fantasy Cooler", a beverage which consists of 60% carbonated water, 20% white wine of fresh grapes, 18% natural fruit juices (lemon, lime, pineapple and grapefruit) citric acid and natural flavours and has an alcoholic strength by volume of 3%.

1) The first step in classifying all products is to apply General Interpretative Rule 1 and search for headings in the nomenclature which describe the subject goods.

2) In reviewing the HS Table of Contents, it would appear that Chapter 22, "Beverages, spirits and vinegar" is the most likely chapter to provide for a beverage such as "Fantasy Cooler".

3) There is only one note to Section IV, but it has no relevance in the classification of this product.

4) None of the legal Notes to Chapter 22 apply to the classification of a beverage such as "Fantasy Cooler".

5) A review of the headings contained in this chapter reveals that there are none that describe the subject beverage, which is a mixture of several products. Therefore the "Fantasy Cooler" cannot be classified solely on the basis of Interpretative Rule 1, and consideration must be given to the other Rules.

6) Rule 2(a) does not pertain to this beverage, as it is a complete, finished product.

7) In considering Rule 2(b), it may be beneficial to refer back to the wording of this Rule.

2(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

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Headings within the nomenclature may be reviewed once again, to identify the appropriate headings for the various components of the beverage and to determine if any, through application of Rule 2(b), may be extended to include a beverage such as "Fantasy Cooler".

8) The possible headings are:

20.09	**Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.**
22.01	**Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow.**
22.02	**Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of Heading No. 20.09.**
22.04	**Wine of fresh grapes, including fortified wines; grape must other than that of heading No. 20.09.**
22.05	**Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.**
22.06	**Other fermented beverages (for example, cider, perry, mead).**

9) In considering heading No. 20.09, the Chapter Notes must be referred to. There is one Note that applies to juices. It is Note 5, which reads as follows:

> **For the purposes of Heading No. 20.09, the expression "juices, unfermented and not containing added spirit" means juices of an alcoholic strength by volume (see Note 2 to Chapter 22) not exceeding 0.5% vol.**

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Because of this Note, the reference to "fruit juices" within heading No. 20.09 cannot be extended to include fruit juices that have been combined with other substances, when the resulting beverage exceeds an alcoholic strength by volume of 0.5%. Therefore, it will not include a beverage such as "Fantasy Cooler".

10) The reference to aerated waters within heading No. 22.01 cannot include aerated waters which have been combined with other substances, such as fruit juices and wine, as this would constitute a flavoured water, something which has been excluded by the wording of the heading.

11) Similarly, the reference to aerated waters in heading No. 22.02 cannot include aerated waters that have been combined with other substances, such as wine and fruit juices, as this would constitute an alcoholic beverage, something which is excluded by the wording of the heading.

12) In considering heading No. 22.04, it is useful to keep in mind the CCC's Explanatory Notes on Interpretative Rule 2(b).

> **"However, it (Rule 2(b)) cannot be invoked to broaden the scope of a heading so that the heading then covers articles which cannot be regarded (as required by Rule 1) as answering the description in that heading. This would be the case where the addition of other materials or substances deprived the goods in question of the character of goods classifiable in the heading concerned."**

Although wine of fresh grapes may have served as the initial ingredient for making the "Fantasy Cooler", it lost the character of wine upon the addition of carbonated water, fruit juices and other substances. The appearance, taste and bottling of the cooler are quite different to that of wine.

Therefore, the "Fantasy Cooler" cannot be classified in heading No. 22.04, even through application of Rule 2(b).

13) For much the same reason, heading No. 22.05 will not include a beverage such as "Fantasy Cooler". In addition, the beverage has not been flavoured with plants or aromatic substances but, rather, with carbonated water and fruit juices.

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14) In considering heading No. 22.06, it must be understood that the phrase, "Other fermented beverages" means fermented beverages other than those provided for by the preceding headings. The fermented-beverage within the wine cooler is of course wine of fresh grapes. As wine of fresh grapes is provided for in heading No. 22.04, Rule 2(b) cannot be used to extend the phrase "other fermented beverages" in heading No. 22.06 to include beverages containing wine of fresh grapes.

15) Despite this application of Interpretative Rule 2(b), no headings have been located which could reasonably provide for a product such as "Fantasy Cooler".

16) In order to classify goods according to the principles of Rule 3, there must be at least two headings which appear to provide for the goods in question. In the case of the "Fantasy Cooler", however, it has been determined that there are no headings in which the beverage could reasonably be classified. Therefore, the principles of Rule 4 must be applied. Rule 4 reads as follows:

4. Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

17) By application of Rule 4, the next step is to identify the heading which provides for products most akin to a beverage such as "Fantasy Cooler".

18) This beverage is quite dissimilar to most of the products specifically described in the headings within the chapters covering beverages. However, it is somewhat similar to beverages such as cider and perry, in that they are all casual drinks, are bottled similarily and have similar properties.

19) Therefore, it could be said that the "Fantasy Cooler" is most akin to the products provided for in Heading No. 22.06 and classification can now be completed.

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		Other fermented beverages (for example, cider, perry, mead).
		---Cider
2206.00.11		----Sparkling
2206.00.19		----Other
2206.00.20		---Prune wine
2206.00.30		---Perry, sparkling
2206.00.40		---Other wine, sparkling
2206.00.50		---Other wine, not sparkling, of an alcoholic strength by volume not exceeding 13.7% vol
		---Other wine, not sparkling, of an alcoholic strength by volume exceeding 13.7% vol:
2206.00.61		----Of an alcoholic strength by volume not exceeding 14.9% vol
2206.00.62		----Of an alcoholic strength by volume exceeding 14.9% vol but not exceeding 15.9% vol
2206.00.63		----Of an alcoholic strength by volume exceeding 15.9% vol but not exceeding 16.9% vol
2206.00.64		----Of an alcoholic strength by volume exceeding 16.9% vol but not exceeding 17.9% vol
2206.00.65		----Of an alcoholic strength by volume exceeding 17.9% vol but not exceeding 18.9% vol
2206.00.66		----Of an alcoholic strength by volume exceeding 18.9% vol but not exceeding 19.9% vol
2206.00.67		----Of an alcoholic strength by volume exceeding 19.9% vol but not exceeding 20.9% vol
2206.00.68		----Of an alcoholic strength by volume exceeding 20.9% vol but not exceeding 21.9% vol
2206.00.69		----Of an alcoholic strength by volume exceeding 21.9% vol
2206.00.70		---Ginger beer and herbal beer
2206.00.90		---Other

Note: The statistical subdivisions for tariff items 2206.00.50 through 2206.00.69 read as follows:

-----Fruit:
11 ------Kosher, blackberry
12 ------Cherry
19 ------Other
20 -----Rice (Sake)
90 -----Other

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20) There are no subdivisions at the subheading level, only at the tariff item and statistical levels.

21) Canadian Rule 1 extends the principle of Interpretative Rule 6 to the Canadian subdivisions, so that only tariff items at the same level are comparable. Therefore, first to be considered equally are the three-dash tariff items, which are:

2206.00.10		---Cider
2206.00.20		---Prune Wine
2206.00.30		---Perry, sparkling
2206.00.40		---Other wine, sparkling
2206.00.50		---Other wine, not sparkling, of an alcoholic strength by volume not exceeding 13.7% vol
2206.00.60		---Other wine, not sparkling, of an alcoholic strength by volume exceeding 13.7% vol
2206.00.70		---Ginger beer and herbal beer
2206.00.90		---Other

22) The "Fantasy Cooler" will fall under the last three-dash tariff item, as none of the others provide for this beverage.

23) This tariff item has not been further subdivided to provide any finer detail at the statistical level, which means the 9th and 10th digits are zeros. Therefore, the correct classification, Number 2206.00.90.00 has been arrived at.

24) While this example has illustrated classification on the basis of Interpretative Rule 4, it should be noted that because of the systematic structure of the Harmonized System, the use of this Rule is required rarely. Essentially, it is used as a last resort to allow for the classification of new products not foreseen by the authors of the nomenclature.

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GENERAL INTERPRETATIVE RULE 5(a)

Product Description: Celebrity model 12T portable electric typewriter, 11kg in weight, complete with specially molded plastic case.

1) The description of this item is specific enough that additional information is not required. Therefore, the process of classification can begin by applying the principles of General Interpretative Rule 1, by searching for headings which could provide for the subject typewriter.

2) After reviewing the HS Table of Contents, it would appear that the typewriter could either be classified in Chapters 84 or 85 in Section XVI, as these are the chapters that contain machinery and mechanical appliances.

3) A quick review of the Section Notes indicates that electric typewriters are not excluded from this section, nor are there any Notes which affect its classification. The same is true for the Chapter 84 Notes, and, therefore, the next step is to explore the chapter, searching for an appropriate heading.

4) Typewriters are mentioned specifically in heading No. 84.69, which reads:

84.69 Typewriters and word processing machines

5) A review of the notes and headings of Chapter 85 does not reveal an alternate heading. Therefore, the appropriate heading for the subject typewriter is heading No. 84.69.

6) The next step is to classify the typewriter at the subheading, tariff and statistical levels.

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84.69		**Typewriters and word-processing machines.**
8469.10		**-Automatic typewriters and word-processing machines**
8469.10.10	00	---Automatic typewriters
8469.10.20	00	---Word-processing machines
		-Other typewriters, electric:
8469.21.00	**00**	**--Weighing not more than 12kg, excluding case**
8469.29		**--Other**
8469.29.10	00	---Machines for typing or branding identifying characters on to insulated tubing for electrical wiring
8469.29.90	00	---Other
		-Other typewriters, non-electric
8469.31.00	**00**	**--Weighing not more than 12kg, excluding case**
8469.39.00	**00**	**--Other**

7) Interpretative Rule 6 states (in part) that only subheadings at the same level are comparable. Therefore, the appropriate one-dash subheading must be identified. There are three subheadings at this level. They are:

- Automatic typewriters and word-processing machines
- Other typewriters, electric
- Other typewriters, non-electric

8) To determine what is meant by the term "automatic typewriters", the Explanatory Notes may be referred to. Here, automatic typewriters are defined as being:

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(a) Machines in which a previously perforated paper band is run through the machines, thus causing it to type a stock paragraph or a complete stock letter. The perforating machine for preparing the paper bands is classified in heading No. 84.72.

(b) Machines with a memory of limited capacity which are able, using additional functional keys, to memorize, correct and retype texts automatically.

Similar perforated band operated machines which do not themselves incorporate the typewriting mechanism, but constitute separate units used to operate a normal typewriter automatically, are classified in heading No. 84.72.

9) Based on this definition and the information contained in the description of the typewriter, the first one-dash subheading under heading No. 84.69 can be eliminated.

10) The last one-dash subheading also does not apply, as the subject typewriter is electric.

11) The second one-dash subheading is the appropriate description, and the typewriter can now be classified at the two-dash subheading level. At this level, there are two choices:

--Weighing not more than 12kg, excluding case
--Other

The description of the typewriter states that the weight of the typewriter is 11kg. Therefore, the first two-dash subheading is applicable in this instance.

12) This subheading has not been further subdivided to provide any finer detail at the tariff or statistical levels. Therefore, the 7th, 8th, 9th and 10th digits are all zeros.

13) By applying the principles of Interpretative Rule 1 and by referring to the Explanatory Notes, the typewriter has been classified under classification No. 8469.21.00.00.

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As heading No. 84.69 makes no reference to whether or not cases for typewriters are included, consideration must be given to the classification of the case.

14) If the typewriter case were to be imported separately from the typewriter, or if it was a case that was not specially shaped to contain a typewriter and could be used for carrying a variety of articles, the case would be classified according to the provisions of the Interpretative Rules, on the basis of its own intrinsic characteristics.

However, Interpretative Rule 5(a) makes provisions for specially designed cases or containers. Rule 5(a) reads as follows:

Rule 5

In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein:

(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. The Rule does not, however, apply to containers which give the whole its essential character;

15) The description of the typewriter and case indicates that the case has been specially designed to hold a Celebrity model 12T portable electric typewriter. Therefore, Interpretative Rule 5(a) will apply, and the case will be classified with the typewriter.

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GENERAL INTERPRETATIVE RULE 5(b)

Product Description: Pure, liquefied methane gas in re-usable steel cylinders

1) Through application of the General Interpretative Rules, legal Notes and Explanatory Notes, the correct classification number for liquefied methane gas can be identified as 2711.11.00.10. The next step is to determine the classification number for the re-usable steel cylinders.

2) Re-usable containers, such as the steel cylinders which are the subject of this classification case study, are classified on the basis of Interpretative Rule 5(b), which reads as follows:

> **(b) Subject to the provisions of Rule 5(a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.**

3) Unlike Rule 5(a) and the first part of rule 5(b), which allow the container to be classified with the article with which it is presented, the latter part of rule 5(b) states that re-usable containers do not qualify for this treatment. Rather, containers of this nature must be classified on the basis of their own characteristics.

4) The first step in the classification process is to locate, in the HS Table of Contents, Chapters which could reasonably provide for steel cylinders of a type used for the movement or storage of liquid gases. This review indicates that Section XV, Chapter 73, "Base metals and articles of base metal", would be the most logical chapter to contain a description of such an item.

5) Section XV has a number of legal Notes which outline exclusions to the Section, define certain expressions and provide information to assist in the classification of certain articles. None of the Notes, however, pertain to the classification of steel cylinders for liquid gas.

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6) There are only two legal Notes to Chapter 73, neither of which apply to steel cylinders. The next step, then, is to explore the Chapter for a heading which provides for the subject cylinders.

7) Heading Nos. 73.09 and 73.10 both cover containers of this nature, but specifically exclude containers for compressed or liquefied gas.

73.09		
7309.00		**Reservoirs, tanks , vats and similar containers for any material (other than compressed or liquefied gas) of iron or steel, of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment.**

73.10		**Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment.**

8) Heading No. 73.11, however, does make provision for this product. This heading has not been subdivided to provide any finer detail at the subheading or tariff levels. Therefore, the 5th, 6th 7th and 8th digits are all zeros.

73.11		
7311.00.00		**Containers for compressed or liquefied gas, of iron or steel**
	10	-----For torches
	20	-----Scuba tanks
	30	-----One-trip shippers
	90	-----Other

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9) There are, however, four subdivisions at the statistical level. As the first three descriptions do not apply to containers for methane gas, they will fall in the last category, which is "Other".

10) Through application of General Interpretative Rule 5(b), it has been determined that the classification No. for re-usable steel cylinders is 7311.00.00.90.